

2013

I-94 East-West Corridor Study Environmental Justice Plan & Preliminary Analysis



August 2013

Executive Summary

Environmental Justice

The Wisconsin Department of Transportation (WisDOT) recognizes the importance of implementing environmental justice into project development efforts. The key regulations and policy directives behind environmental justice assessment requirements are Title VI of the Civil Rights Act of 1964 and Executive Order 12898 issued by President Clinton in 1994.

Title VI of the Civil Rights Act of 1964¹ prohibits intentional discrimination, as well as disparate impact discrimination, that results when a facially neutral policy has disparate impacts on protected population groups. To clarify and amplify the nondiscrimination requirements of Title VI, President Clinton issued Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” in 1994.

Presidential Executive Order on Environmental Justice 12898 directs federal agencies to take appropriate and necessary steps to identify and address disproportionately high and adverse effects of federal projects on the health or environment of minority and/or low-income populations to the greatest extent practicable by law. The Executive Order states, to the extent practicable and permitted by law, that neither minority nor low-income populations may receive disproportionately high or adverse effects² as a result of a proposed project. The order requires that representatives of low-income or minority populations that could be affected by the project be given the opportunity to be included in the impact assessment and public involvement process.

Federal Highway Administration (FHWA) guidance, “Addressing Environmental Justice in Environmental Assessments/Environmental Impact Statements,” outlines the elements and steps to be followed when preparing an EIS and requires the following steps:

- Identify existing minority or low-income population.
- Explain coordination with, access to information, and participation of environmental justice populations.
- Identify disproportionately high and adverse effects (if applicable) on environmental justice populations.

If the high and adverse impacts are found to be borne disproportionately by low-income and minority populations, an analysis must examine mitigation measures, offsetting benefits, and impacts of other system elements in accordance with FHWA Order 6640.23A, Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (1998).

¹ Title VI states that “[n]o person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

² Disproportionately high and adverse effect on low-income and minority populations is defined in FHWA Order 6640.23A as (1) is predominately borne by a minority population and/or a low-income population; or (2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population. Adverse effects are defined in FHWA Order 6640.23A as the totality of significant individual or cumulative human-health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness, or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion, isolation, exclusion, or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of FHWA programs, policies, or activities.

Environmental Justice Plan and Preliminary Analysis

The *I-94 East-West Corridor Study Environmental Justice Plan and Preliminary Analysis* reflects WisDOT's interest in environmental justice for all stakeholders affected by or interested in the planning and implementation of the I-94 East-West Corridor Study. The purpose of this document is twofold. The document presents:

- Existing demographic information present in the I-94 East-West Corridor study area
- A plan for assessing environmental justice data and impacts, and a plan for engaging environmental justice populations in the study area

This document provides a preliminary environmental justice population analysis through identifying existing environmental justice populations in the study corridor. The next step is to analyze adverse or beneficial impacts to minority or low-income populations in those areas compared to non-minority or low-income populations. These impacts (both direct and indirect) will be documented thoroughly in the I-94 East-West Corridor Study Draft Environmental Impact Statement (Draft EIS).

WisDOT used data available from the United States Census Bureau to identify potential environmental justice populations in the I-94 East-West Corridor study area. A series of maps and tables provide an overview of the various social and economic groups present in the study corridor. The preliminary environmental justice analysis includes 4 study bands to identify potential environmental justice populations in the study corridor:

- Within a 1,000 foot corridor of centerline I-94
- Within a 0.5-mile corridor
- Within a 1-mile corridor
- Travel dispersion corridor (outline based on how far away from I-94 one must go before taking a route other than I-94 to reach a destination outside of the study area)

WisDOT obtained 2000 and 2010 demographic information for each corridor noted above. To serve as a point of comparison, demographic information from the following entities was obtained:

- State of Wisconsin
- Milwaukee County
- Aggregate of the four municipalities that are in the project area: Cities of Milwaukee, Wauwatosa, and West Allis and the Village of West Milwaukee
- City of Milwaukee
- City of Wauwatosa
- City of West Allis
- Village of West Milwaukee

Preliminary analysis on the presence of low-income, minority, and other populations within these specific geographic proximities is found in this document. There are environmental justice populations found throughout the I-94 East-West Corridor and concentrated within certain regions of the study area. This document identifies these areas while the Draft EIS will discuss specific impacts to these environmental justice populations.

Within the travel dispersion corridor, 1-mile corridor, 0.5-mile corridor, and 1,000-foot corridor of I-94, minorities made up 47.4 percent, 42.5 percent, 38.5 percent, and 36.5 percent of the population in 2010, respectively. Thus, the areas closer to I-94 contain a lesser percentage of minority population than areas further away from I-94. The minority population in Milwaukee County grew 15.4 percent between 2000 and 2010, to 39.4 percent. The travel dispersion corridor minority population grew 5.4 percent between 2000 and 2010 while within study area communities, minority population has experienced differing

annual levels of growth from 10 percent in the City of Milwaukee (55.2 percent total minority population) to approximately 119 percent in the City of West Allis (13.3 percent total minority population).

In the travel dispersion corridor in 2010, approximately 27 percent of the population is considered Hispanic or Latino³ of any race, while 25 percent of the population is African American. The African American population in the travel dispersion corridor is similar to that in Milwaukee County (27 percent); however, the percentage of Hispanic or Latino population in the study area is double that of the percentage in Milwaukee County (13 percent). In Milwaukee County, the largest minority population is African American at 26.8 percent of the population.

Based on 2010 Census data, the mean household income in the travel dispersion corridor was lower than the mean household income for Milwaukee County and all the individual communities within the study area. The percentage of persons living in poverty is greater in the travel dispersion corridor (31.0 percent) than it is in Milwaukee County (19.3 percent), City of Milwaukee (26.2 percent), West Allis (11.8 percent), Wauwatosa (4.9 percent), and West Milwaukee (16.7 percent).

Outreach

Additionally, this document lists the neighborhood and community groups, businesses, business organizations, churches, and schools the project team will reach out to as part of this study. Project staff will contact and arrange to meet with these stakeholders to inform them of the study, solicit information and input on the study, and to equip them with information regarding Public Information Meetings and other opportunities for their membership to provide input about the project. Post-meeting follow-up will include database additions for mailed and electronic newsletters to keep them informed of the project status and timeline.

³ Population by race was taken from data indicating race alone or in combination with other races (Table P9 from SF1). As a result of these categories not being mutually exclusive, the population obtained by summing all of the racial categories may exceed the total population for any given area. It should also be noted that 'Hispanic' is an ethnic group and not a race category, and is expressed separately from race in the data. Thus, Hispanic persons are also White, Black, etc., in addition to being Hispanic. Total minority population was calculated as the sum of all non-white race groups, plus Hispanics indicating their race as 'White.'

Table of Contents

Executive Summary.....	1
Environmental Justice	1
Environmental Justice Plan and Preliminary Analysis.....	2
Outreach	3
1 Purpose and Goals of the Environmental Justice Plan and Preliminary Analysis.....	7
1.1 Environmental Justice Background	7
1.2 Purpose of Environmental Justice Plan and Preliminary Analysis	8
1.3 Goals	8
2 Preliminary Analysis.....	11
2.1 Environmental Justice Populations	11
2.2 Environmental Justice Analysis Areas	12
3 Proposed Methodology	15
4 Environmental Justice Preliminary Analysis	19
4.1 Terminology	19
4.2 General Population	19
4.3 Race and Ethnicity.....	19
4.3.1 White/Caucasian Population	21
4.3.2 Minority Population	24
4.3.3 Black or African American Population	26
4.3.4 American Indian or Alaska Native Population	28
4.3.5 Asian Population	30
4.3.6 Hispanic or Latino Population	32
4.3.7 Hawaiian Native and other Pacific Islander Population.....	34
4.3.8 Some Other Race Population.....	36
4.3.9 Two or More Races Population.....	38
4.3.10 Minority Population Breakdown.....	40
4.4 Low-Income Populations	42
4.4.1 Mean Household Income.....	42
4.4.2 Families Receiving Public Income Assistance.....	43
4.4.3 Poverty	47
4.4.4 Families Below Poverty Level.....	49
4.5 Other Pertinent Demographic Information	51
4.5.1 Immigration.....	51

4.5.2	Household Characteristics	51
4.5.3	Transportation	51
4.5.4	Disability.....	52
4.5.5	Housing Characteristics.....	52
4.5.6	Education	52
5	Outreach	53
6	Environmental Justice Staff Resources	57
7	Timelines, Activities, and Deliverables	59
8	Tentative Methods of Evaluation of Environmental Justice Plan Effectiveness.....	61
Appendix I: Executive Order 12898		63
Appendix II: Environmental Justice – The US Department of Transportation.....		67
Appendix III: Census 2010 Definition of Subject Characteristics		73
Appendix IV: Public Involvement Plan		93
Appendix V: Title VI.....		113
Appendix VI: Executive order 13045.....		115
Appendix VII – Americans with Disabilities Act – Amendment Act		119
Appendix VIII: Age Discrimination Act		123
Appendix IX: Executive Order 13166		141
Appendix X - Environmental Justice Impact Evaluation.....		143

1 Purpose and Goals of the Environmental Justice Plan and Preliminary Analysis

This *I-94 East-West Corridor Environmental Justice Plan and Analysis* identifies and describes environmental justice populations and stakeholders within the I-94 East-West Corridor. A plan is provided as to conduct analysis to determine if there are disproportionately high and adverse effects of the project being borne by environmental justice populations. The results of this detailed analysis will be presented in the I-94 East-West Corridor Draft EIS.

1.1 Environmental Justice Background

The key regulations and policy directives behind environmental justice assessment requirements are Title VI of the Civil Rights Act of 1964 and Executive Order 12898 issued by President Clinton in 1994.

Title VI of the Civil Rights Act of 1964⁴ prohibits intentional discrimination, as well as disparate impact discrimination, which results when a facially neutral policy has disparate impacts on protected population groups. To clarify and amplify the non-discrimination requirements of Title VI, President Clinton issued Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” in 1994.

Presidential Executive Order on Environmental Justice 12898 directs federal agencies to take appropriate and necessary steps to identify and address disproportionately high and adverse effects of federal projects on the health or environment of minority and/or low-income populations to the greatest extent practicable by law. The Executive Order states that, to the extent practicable and permitted by law, neither minority nor low-income populations may receive disproportionately high or adverse impacts as a result of a proposed project. The order also requires that representatives of any low-income or minority population that could be affected by the project be given the opportunity to be included in the impact assessment and public involvement process.

FHWA guidance on “Addressing Environmental Justice in Environmental Assessments/Environmental Impact Statements” outlines the elements and steps to be followed when preparing an EIS and requires the following steps:

- Identification of existing populations.
- Identification of coordination, access to information, and participation.
- Identification of disproportionately high and adverse effects.

As part of the Draft EIS WisDOT and FHWA will complete an environmental justice analysis to determine whether the proposed project has the potential to incur disproportionately high and adverse effects⁵ upon minority or low-income populations.⁶ If the high and adverse impacts are found to be borne

⁴ Title VI states that “(n)o person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

⁵ Adverse effects are defined in FHWA Order 6640.23A as the totality of significant individual or cumulative human-health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to the following: bodily impairment, infirmity, illness, or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion, isolation, exclusion, or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of FHWA programs, policies, or activities.

⁶ Disproportionately high and adverse effect on low-income and minority populations is defined in FHWA Order 6640.23 as follows: (1) is predominately borne by a minority population and/or a low-income population; or (2) will be suffered by the minority population and/or

disproportionately by low-income and minority populations, an analysis must examine mitigation measures, offsetting benefits, and impacts of other system elements in accordance with FHWA Order 6640.23A, *Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, issued in 2012.⁷

In addition, FHWA issued a memorandum in December 2011 providing guidance on the process to address environmental justice during the NEPA review, including documentation requirements. The memorandum supplements FHWA Technical Advisory 6640.8A, which provides guidance for documenting the potential social, economic, and environmental impacts considered in the selection and implementation of highway projects. The memorandum notes that environmental justice discussion in environmental documents should include the following:

- Identifying existing minority and low income populations.
- Explain coordination with, access to information, and participation of environmental justice populations.
- Identify disproportionately high and adverse effects (if applicable) on environmental justice populations

1.2 Purpose of Environmental Justice Plan and Preliminary Analysis

The *I-94 East-West Corridor Study Environmental Justice Plan and Preliminary Analysis* identifies a set of goals, recommended target audiences, and proposed deliverables. The plan also defines criteria to identify and communicate with minority persons and low-income persons located within the study area, as well as strategies to assess and mitigate potential impacts on those populations. Analysis will include close coordination with public outreach efforts and will document communication between WisDOT and leaders, groups, and individuals representing minority groups within the study area. Information, results of analyses, and feedback received from stakeholders will be documented and provided to the study team throughout the process.

1.3 Goals

Specific goals of the *I-94 East-West Corridor Study Environmental Justice Plan and Preliminary Analysis* include:

- Identifying and locating minority populations and/or low-income populations within the study area⁸.
- Conducting outreach and building open lines of communication to engage minority and low-income stakeholders in discussion to identify interests, questions, concerns, and obtain feedback into the proposed project design.

The Environmental Justice analysis includes an outreach component and thus becomes closely tied with the Public Involvement effort.⁹ The I-94 East-West study team anticipates that the efforts outlined in this plan will enhance the Public Involvement process and encourage interested parties to share ideas, expectations, and concerns for the project and future WisDOT projects, resulting in the best possible integrity of the project and well-being of all stakeholders.

low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

⁷ FHWA Order 6640.23A cancels FHWA Order 6640.23 which was issued in 1998.

⁸ Minority populations and low-income populations are two distinct population categories. Executive Order 12898 applies to both categories independent of one another.

⁹ See Appendix #4: I-94 East-West Corridor Study Public Involvement Plan

Results of this plan and preliminary analysis will assist the study team in determining if potential disproportionately high and adverse human health and environmental impacts may occur as a result of the I-94 East West Corridor project. This plan and preliminary analysis will be included as part of the Draft EIS on the CD in the back of that document.

2 Preliminary Analysis

2.1 Environmental Justice Populations

In order to meet specific requirements outlined in Executive Order 12898, WisDOT will conduct a preliminary analysis of the various demographic groups located near the study corridor and will include focused communication through grassroots outreach in the following general demographic groups. To determine the presence of minority and low-income populations in the study area, WisDOT used localized census tract, block group, and block data, supplemented by the study team's extensive public involvement program and other relevant data sources.

Minority – a person who is:

- Black/African American (having origins in any of the black racial groups of Africa)
- Hispanic or Latino (of Mexican, Puerto Rican, Cuban, South American, or other Spanish culture or origin, regardless of race)
- Asian American (having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands)
- American Indian or Alaska Native (having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition)
- Hawaiian Native or other Pacific Islander (people having origin in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islanders)
- Caucasian and any combination of the above (EJ, Title VI¹⁰, Executive Order 12898)

Low-income – is defined as a household income at or below poverty guidelines. For example, in 2012, a family of four with two children under the age of 18 would be considered in poverty if the family's total income was less than \$23,283 (U.S. census Bureau 2013)¹¹.

- Other indicators of low-income:
 - Child lunch vouchers (Executive Order 13045)¹²
 - Section 8 Housing

Other population groups not protected under the Executive Order or Environmental Justice but potentially affected by the proposed action:

- Persons with disabilities (Americans with Disabilities Act Amendment Act)¹³
- Elderly (Age Discrimination Act)¹⁴

¹⁰ See Appendix #5: Title VI

¹¹ Income data is collected by the American community Survey (ACS). The ACS tracks local economic conditions annually rather than on a decennial basis like the U.S. Census. The U.S. Department of Health and Human Services (HHS) annually publishes poverty guidelines to determine financial eligibility for certain programs. The HS guidelines are a simplification of the U.S. Census Bureau's poverty thresholds for use for administrative purposes; for instance, determining financial eligibility for certain federal programs. According to the HHS guideline, in 2013 a household containing four persons was considered to be living in poverty if the total income of the family was less than \$23,550. See Appendix #3 Census 2010 Definition of Subject Characters.

¹² See Appendix #6: Executive order 13045

¹³ See Appendix #7 Americans with Disabilities Act – Amendment Act

¹⁴ See Appendix #8: Age Discrimination Act

- Limited English Proficiency (Executive Order 13166)¹⁵
- Children
- Persons with zero vehicle ownership

2.2 Environmental Justice Analysis Areas

The I-94 East-West Corridor study area includes approximately 3.5 miles of I-94 freeway corridor from 70th Street (west limit) to 16th Street (east limit) (**Exhibit 1**). The study area also includes one system interchange (Stadium interchange) and five service interchanges along I-94 (the 68th/70th Street split diamond, Hawley Road, Mitchell Boulevard, 35th Street, and 25th/26th/28th Street).

The preliminary environmental justice analysis includes four study bands to identify potential environmental justice populations in the study corridor:

- Within a 1,000 foot corridor of centerline I-94
- Within a 0.5-mile corridor
- Within a 1-mile corridor
- Travel dispersion corridor (outline based on how far away from I-94 one must go before taking a route other than I-94 to reach a destination outside of the study area)

Exhibit 2 shows the location of the study bands listed above.

This represents an initial look at demographic composition of the study area. Additional demographic data may be required, or the same data may be gathered for a larger area after the project's area of effect is better understood. This will be determined during initial outreach to environmental justice groups and as the initial range of alternatives are developed and evaluated.

¹⁵ See Appendix #9: Executive Order 13166

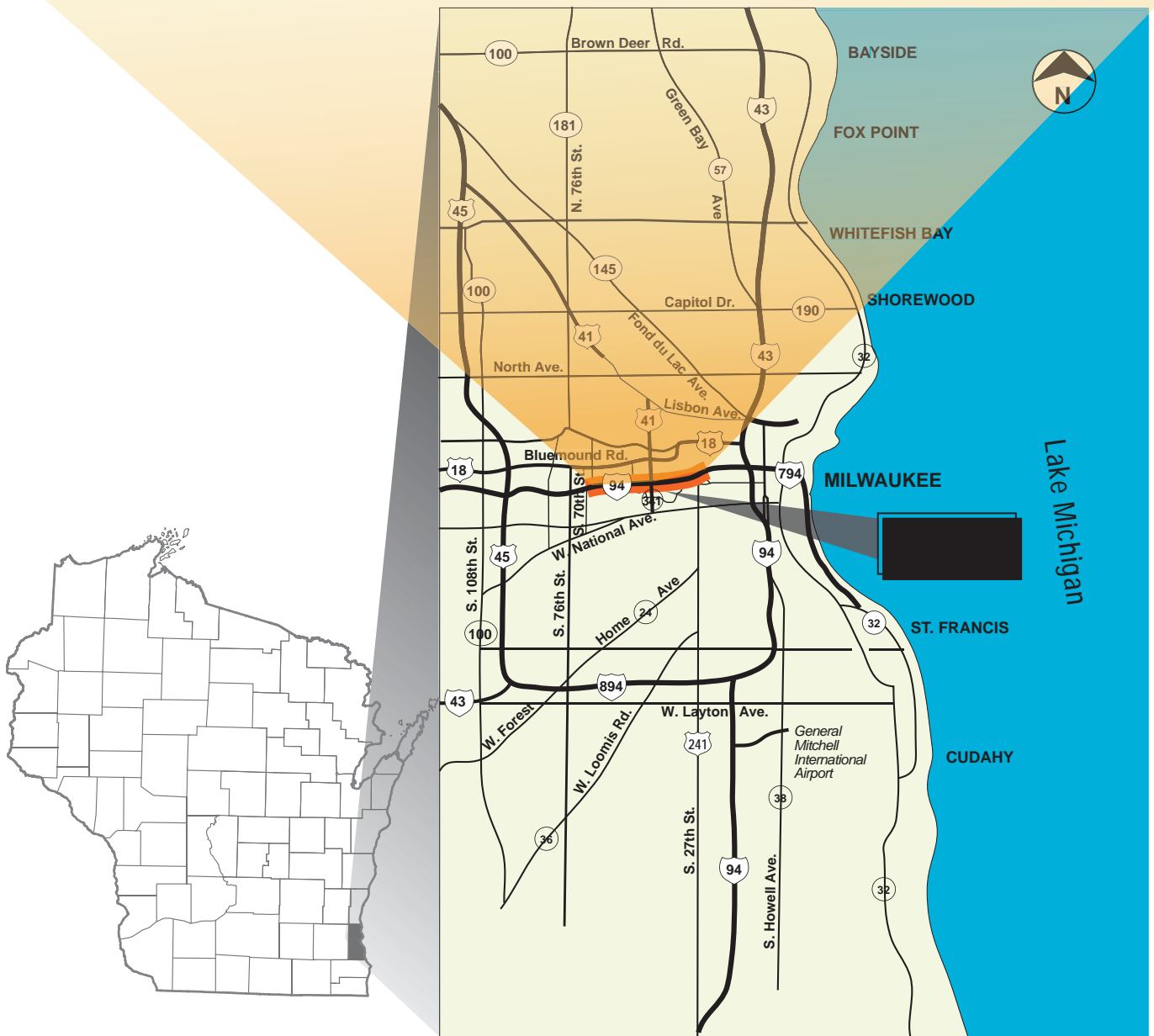
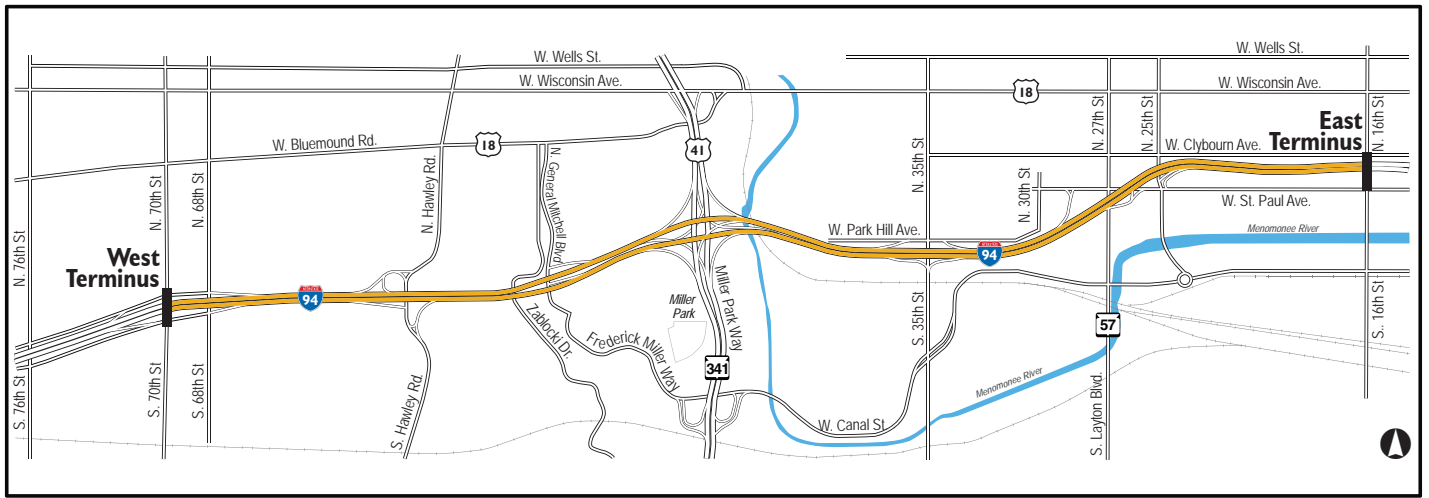


Exhibit I
Project Location Map

I-94 East-West Study Environmental Justice Plan & Preliminary Analysis

3 Proposed Methodology

The I-94 East-West Corridor Study is surrounded by many different and distinct communities, neighborhoods, and organizations, thus the pool of stakeholders is large and diverse. Census information will initially be analyzed to determine stakeholder make-up and best identify and assess their needs. WisDOT's preliminary analysis will include but not be limited to identifying the following within the project limits:

- Low-income stakeholder census blocks
- Low-income rental property locations
- Minority populations
- Businesses
- Preferred contact person at each identified local government
- Churches
- Schools
- Cemeteries
- Community Organizations

Analysis will include a demographic profile of stakeholders, including 2010 census data and American Community Survey (ACS) data and documentation of issues and concerns raised by various stakeholders. In order to reasonably analyze the project data, all areas within the project area will be considered. Stakeholders who are not located directly within the limits designated for analysis may be identified through the Public Involvement process. Due to the interconnectedness between the Environmental Justice and Public Involvement, the Environmental Justice analysis may incorporate considerations of issues raised as part of the Public Involvement effort where appropriate.

While the primary objective of the Environmental Justice analysis is to assess the disproportionate impacts to certain populations resulting from proposed actions, it is important that the analysis also provides information on low-income and minority populations so that alternatives which address recurring community-wide problems can be developed. This approach includes both a qualitative and quantitative process of gathering stakeholder input on the potential impacts of alternatives identified during the EIS process, as well as data gathering using various demographic and economic data resources available at the regional, state, and federal levels.

The Environmental Justice Analysis will be completed in five phases. Phase I will identify and describe the stakeholders by defining a study area and gathering information about the people and organizations within it. Phase II will identify socio-economic factors present, beyond quantifiable data, within the study area. Phase III will identify and assess issues concerning Environmental Justice using public involvement feedback and calculating impacts for each alternative. Phase IV will analyze the effect of those impacts on minority and/or low income populations, and if those impacts are adverse, if they are proportionate or disproportionate to those experienced by the general public. Phase V links the Environmental Justice Analysis to public involvement efforts so that all stakeholders including minority and/or low income populations have the opportunity to participate in the EIS process.

This document will address Phase I (identify and describe stakeholders within the I-94 East-West Corridor); while the other four phases will be completed as part of the EIS process and discussed in the Draft EIS.

Phase I – Identify and describe stakeholders within the I-94 East-West Corridor

1. Develop a base map of the defined limits of the Environmental Justice study area.

2. Overlay the base map with the recommended initial distance of one mile radius around the study area to identify the range of potential schools, churches, residences, and other stakeholders within the Environmental Justice study area.
3. Determine the presence and estimate the size of the minority populations and/or low-income populations within the study limits.
4. Identify and give a brief demographic description of the minority populations and/or low-income populations within the Environmental Justice corridor limits and initial one mile radius.
5. Where appropriate, identify and give a brief description of communities within study limits.
6. Where appropriate, develop a community profile to include applicable and/or appropriate:
 - Neighborhood boundaries
 - Demographic information
 - Economic Data
 - Other pertinent data

Areas of interest to the Environmental Justice analysis will be identified through part of the PI team's outreach specialists and socioeconomic analysis efforts. These efforts include identification and consideration of the location and nature of neighborhoods and residents within the study limit, a brief overview of the local social history of the communities within the area, and the land use plans.

Phase II – Identify and define the socio-economic factors of communities along the corridor

Pursuant to WisDOT's policy and procedures, analysis of the socio-economic factors requires an analysis that extends beyond quantifiable aspects to non-quantifiable aspects such as a community's values and history.

Analysis of socio-economic factors will be addressed as part of the environmental impact statement and will include from this effort, but not to be limited to: neighborhood and community cohesion, regional economic impacts, and public and private development plans.

Phase III - Identify and assess issues, concerns of Environmental Justice and stakeholder populations within the corridor study area

1. Using information gathered from Public Involvement and information collected above, WisDOT will identify and describe issues of concern or controversy within the minority communities and low-income communities.
2. Using the range of alternatives, data collected, issues identified, and described effects to minority populations and low-income populations resulting from the reasonable alternative developed and presented at the public information hearings.

Phase IV – Analysis of impacts to minority populations and/or low income populations

Assess whether effects to the minority populations and/or low-income populations are beneficial or adverse.

Review considerations:

- Are the effects proportionate or disproportionate to those experienced by the general population?
 1. What are the effects?
 2. Direct
 3. Indirect

4. Cumulative
- Are there any disproportionately high or adverse effects?
 1. Predominantly borne by minority or traditionally underserved populations
 2. What are the comparative effects experienced by minority or low-income populations and are they more severe or greater in magnitude than the adverse effects suffered by non-minority and/or non-traditionally underserved?
 - Are any of the minorities or low-income populations protected under the Title VI of the 1964 Civil Rights Act (which prohibits discrimination on the basis of race, color, or country of origin)?
 - Consider the Age Discrimination Act or Americans with Disabilities Act as noted in the Environmental Justice Impact Evaluation.
 - Provide data, support, and brief analysis for consideration in the development of the EIS Review discussion of the potential mitigation and enhancement efforts to address disproportionately high and adverse effects to Environmental Justice populations.

Phase V –Environmental Justice link to Public Involvement

The Environmental Justice component is closely related to Public Involvement on the I-94 East-West Corridor Study project, as the study's communication efforts will strive to ensure the full and fair participation of minority populations and low-income groups to provide input to the project team. A variety of successful tools and methods for achieving maximized public involvement from all parties have been developed through previous mega-project studies in the Southeast Region including those completed as part of the Marquette Interchange Project, I-94 North-South Freeway Project, and Zoo Interchange Project. Public Involvement continues to serve a vital role to educate citizens about the transportation development process and increase the likelihood of implementation of an alternative through informed consent from all groups.

4 Environmental Justice Preliminary Analysis

4.1 Terminology

Below is an example of actual data as it will be presented throughout this document.

A.

B.

C.

Black/African American	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	253,764	237,761	28,311	2,076	495	2,199	618	428	428	242,464	736	1,952	5,844	29,852
% of population	26.78%	39.98%	30.96%	4.47%	3.30%	3.64%	5.89%	10.05%	10.05%	34.35%	20.60%	21.90%	28.30%	24.64%

Source: 2010 Census

- A. The headings refer to areas to be researched. For example, the *Half-Mile Corridor* heading refers to just the population that is located within a half-mile corridor around I-94.
- B. The *Total Population* row refers to the population of the group represented in the table. In this example, the African American or Black population within a half-mile corridor around I-94 is 1,952.
- C. The *Percentage by Race Type* is the percentage of the total population that the value in the *Population* column represents. For example, 21.9% of the population within a half-mile corridor around I-94 is African American or Black.

The terminology used in this document is intended to have the same definitions used in the census. Terms used such as “Hispanic”, “family”, and “poverty” have the same meaning as used in the census.¹⁶

The following tables describe demographic and economic data provided in the 2010 Census and ACS. For race and ethnicity categories, Census blocks were the geographic entity used. For economic categories Census tracts were used as they are the smallest geographic entity used to report economic data. The following exhibits and tables display actual counts and percentages of select populations within each Census geographic entity (either block or tract).

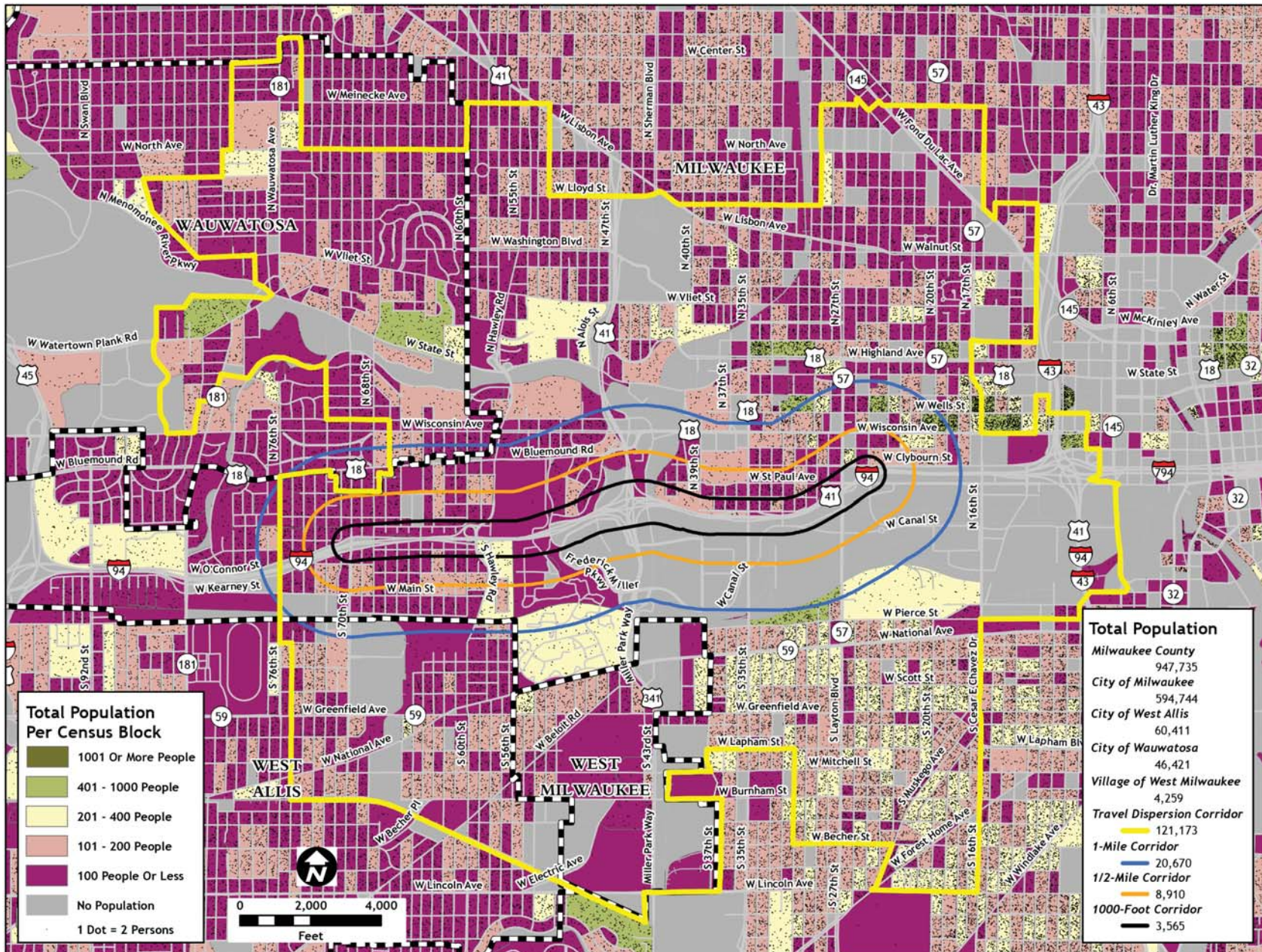
4.2 General Population

Exhibit 3 shows the total population of each census block within the travel dispersion corridor (travel dispersion corridor on the map). The blocks with the most population are located along Highland Avenue, Wells Street, Wisconsin Avenue near Marquette University, located north of I-94 and east of the Stadium Interchange. Also, due to its industrial nature, the Menomonee Valley, south of I-94 and east of the Stadium Interchange, has no population. **Exhibit 3** illustrates the areas without population in grey.

4.3 Race and Ethnicity

Population by race was taken from data indicating race alone or in combination with other races (2010 Census Table DP-1 from SF1). As a result of these categories not being mutually exclusive, the population obtained by summing all of the racial categories may exceed the total population for any given area. It should also be noted that 'Hispanic' is an ethnic group and not a race category, and is expressed separately from race in the data. Thus, Hispanic persons are also White, Black, etc., in addition to being Hispanic. Total minority population was calculated as the sum of all non-white race groups.

¹⁶ See Appendix #3: Census 2010 Definition of Subject Characteristics



Note: According to the 2010 Census the areas of no population have no persons living in them.



Demographics within the four bands, 1,000 foot, 0.5 mile, 1.0 mile, and travel dispersion corridor have been identified and compared to the demographics and economics of the surrounding cities, Milwaukee County, and the State of Wisconsin. The data depicted on the following pages represent various sub-groups of the population.

Race and Ethnicity Summary	State of Wisconsin	Milwaukee County	City of Milwaukee	City of Wauwatosa	City of West Allis	Village of West Milwaukee	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
White/Caucasian Total										
Population & Percentage by Race Type	4,902,067 86.2%	574,656 60.6%	266,270 44.8%	41,593 89.6%	52,396 86.7%	2,954 69.4%	2,262 63.4%	5,478 61.5%	11,892 57.5%	63,722 52.6%
Black or African American										
Total Population & Percentage by Race Type	359,148 6.3%	253,764 26.8%	237,761 40.0%	2,076 4.5%	2,199 3.6%	428 10.1%	736 20.6%	1,952 21.9%	5,844 28.3%	29,852 24.6%
American Indian or Alaska Native										
Total Population & Percentage by Race Type	54,526 1.0%	6,808 0.7%	4,692 0.8%	139 0.3%	648 1.1%	37 0.9%	44 1.2%	90 1.0%	223 1.1%	1,335 1.1%
Asian										
Total Population & Percentage by Race Type	129,234 2.3%	32,422 3.4%	20,847 3.5%	1,289 2.8%	1,231 2.0%	138 3.2%	167 4.7%	383 4.3%	702 3.4%	5,850 4.8%
Hawaiian Native or other Pacific Islander										
Total Population & Percentage by Race Type	1,827 0.0%	363 0.0%	241 0.0%	28 0.1%	19 0.0%	2 0.1%	2 0.1%	4 0.0%	13 0.1%	53 0.0%
Hispanic										
Total Population & Percentage by Race Type	336,056 5.9%	126,039 13.3%	102,985 17.3%	1,450 3.1%	5,770 9.6%	1,098 25.8%	498 14.0%	1,327 14.9%	2,655 12.8%	32,593 26.9%
Other Race Alone										
Total Population & Percentage by Race Type	135,687 2.4%	51,429 5.4%	44,647 7.5%	296 0.6%	2,155 3.6%	519 12.2%	210 5.9%	571 6.4%	1,156 5.6%	15,447 12.8%
Two or More Races										
Total Population & Percentage by Race Type	104,317 1.8%	28,293 3.0%	20,286 3.4%	1,000 2.2%	1,763 2.9%	181 4.3%	144 4.0%	432 4.9%	840 4.1%	4,914 4.1%

4.3.1 White/Caucasian Population

The following table provides data on the White/Caucasian population in and near the I-94 East-West Corridor study area.

White	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	574,656	266,270	39,002	41,593	13,603	52,396	8,163	2,954	2,954	363,213	2,262	5,478	11,892	63,722
% of population	60.63%	44.77%	42.65%	89.60%	90.80%	86.73%	77.86%	69.36%	69.36%	51.46%	63.40%	61.50%	57.50%	52.59%

The following chart provides a visual representation of the White/Caucasian Population Percentages in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

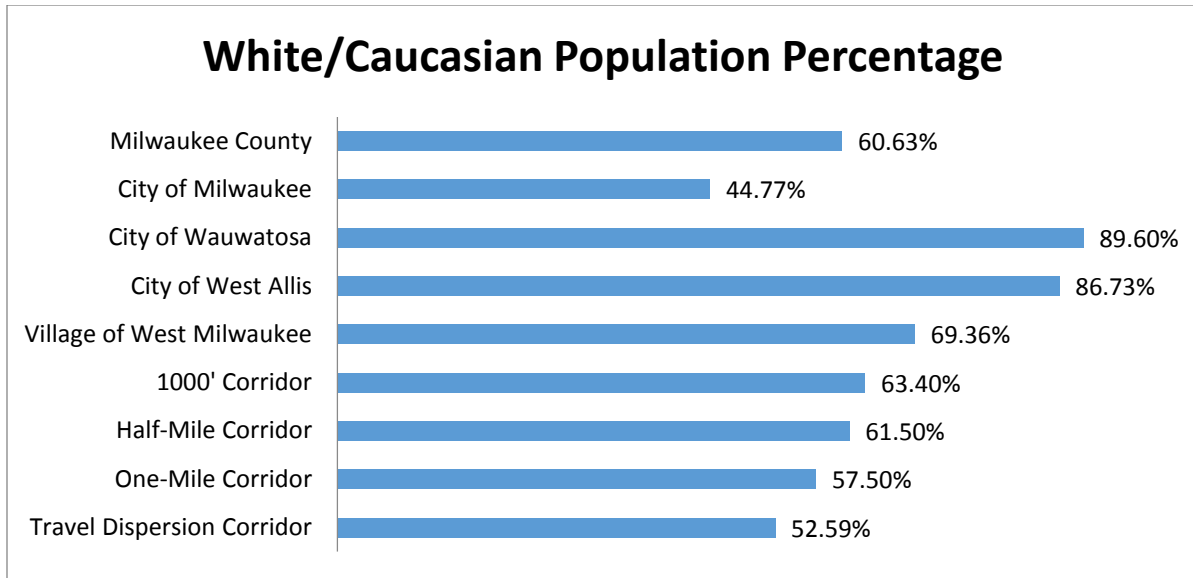
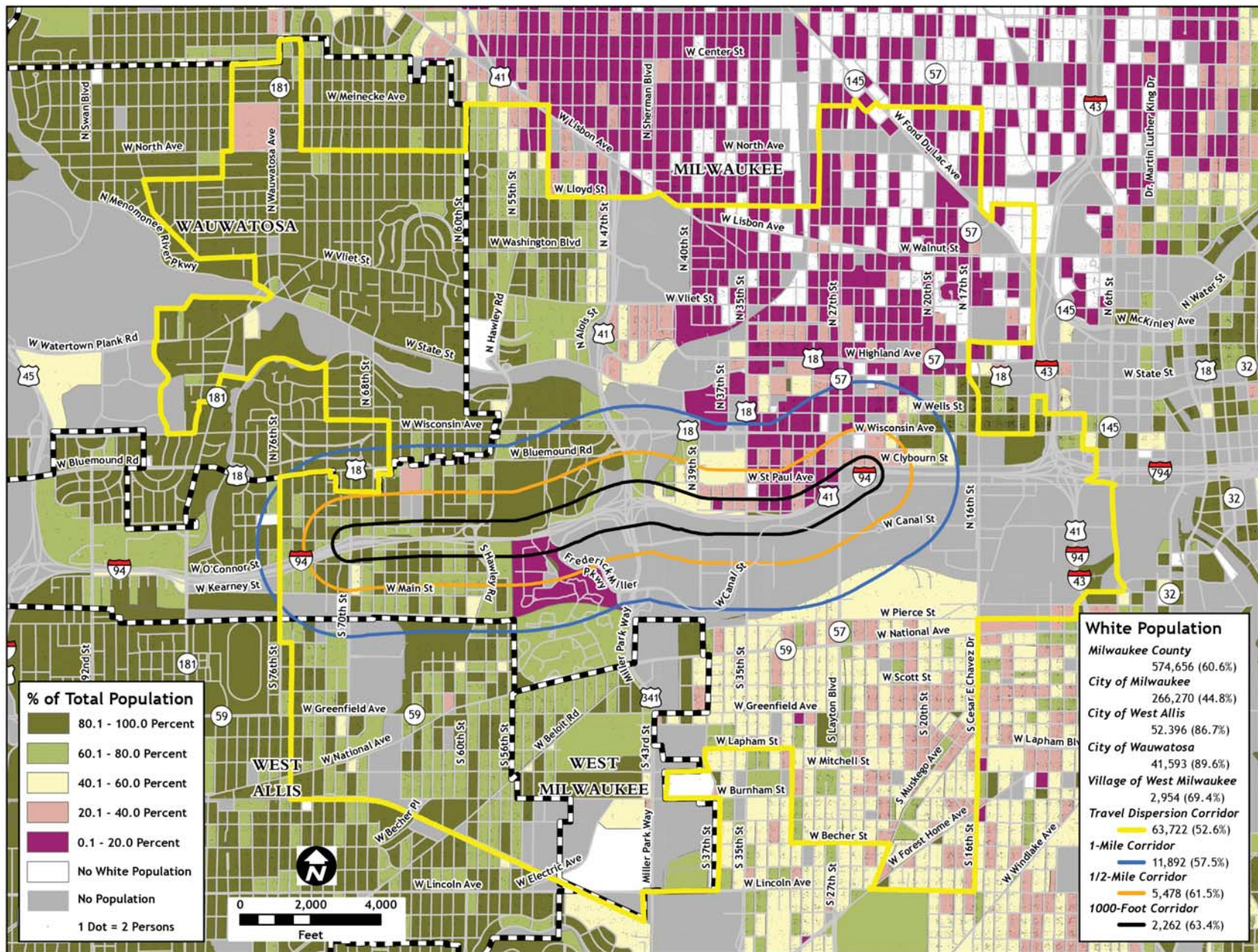


Exhibit 4 illustrates where white populations live within the study corridor. Within the half-mile corridor around I-94 in the study corridor (one-quarter mile in each direction from I-94), approximately 61 percent of the population identifies themselves as White/Caucasian. Most of the census blocks within the travel dispersion corridor containing 60.1 to 100.0 percent whites are located west of US 41 on both sides of I-94.



Note: According to the 2010 Census the areas of no population have no persons living in them.



4.3.2 Minority Population

The following table provides data on the total minority population in and near the I-94 East-West Corridor study area.

Minority	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	373,079	328,474	52,447	4,828	1,378	8,015	2,321	1,305	1,305	342,622	1,303	3,432	8,778	57,451
% of population	39.37%	55.23%	57.35%	10.40%	9.20%	13.27%	22.14%	30.64%	30.64%	48.54%	36.50%	38.50%	42.50%	47.41%

The following chart provides a visual representation of the Minority Population Percentages in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

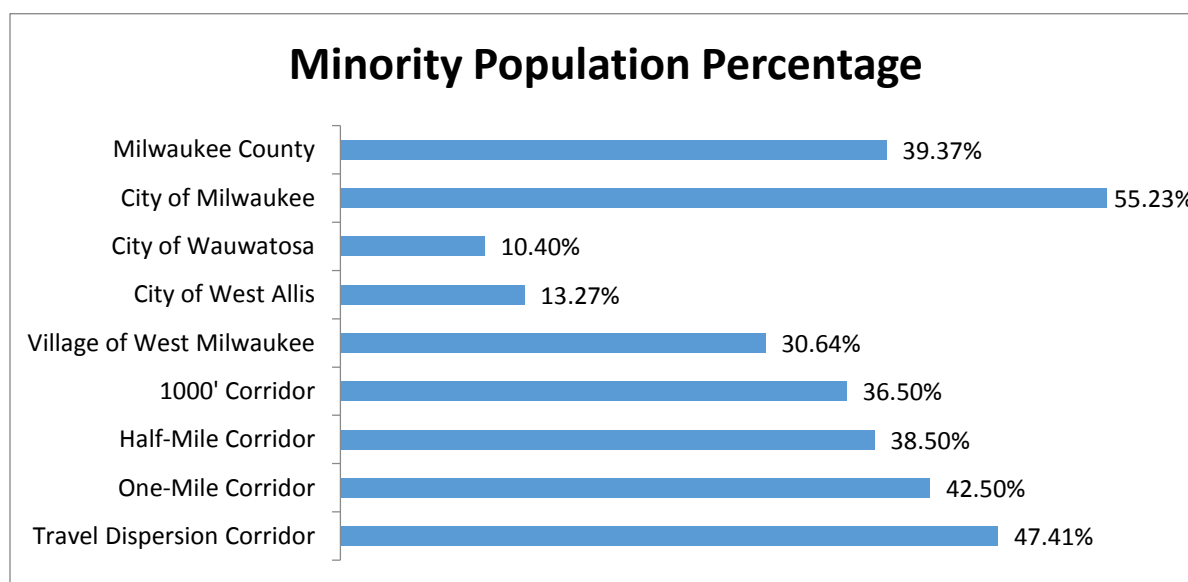
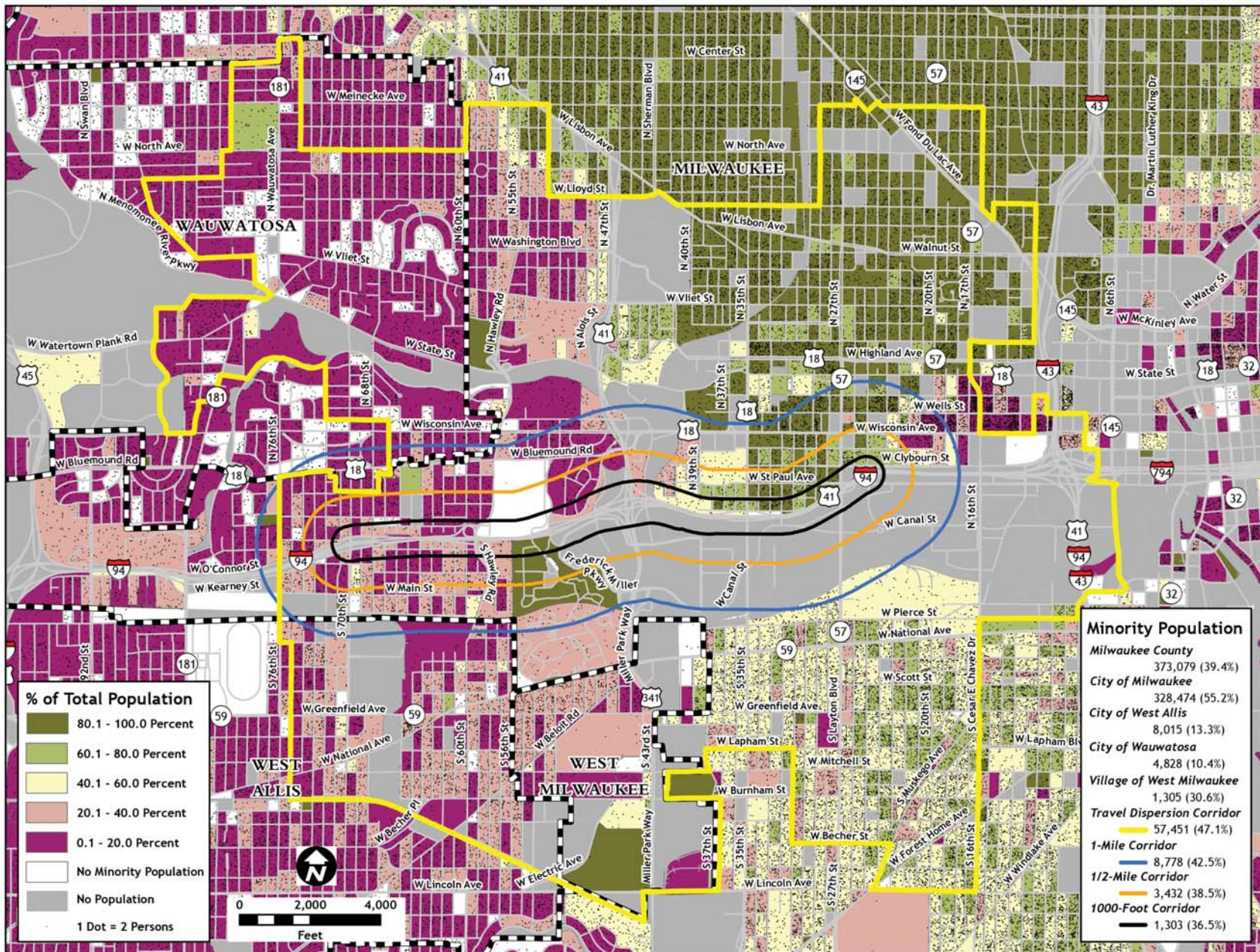


Exhibit 5 illustrates where minority populations live within the study corridor. Within the half-mile corridor around I-94 in the study corridor (one-quarter mile in each direction from I-94), approximately 39 percent of the population identifies themselves as Minority. Most of the census blocks containing 60.1 percent to 100.0 percent minorities are located east of US 41 and north of I-94. Most of the blocks in the area east of WIS 341 (Miller Park Way) and south of I-94 contain 40.1 to 60.0 percent minorities.



4.3.3 Black or African American Population

The following table provides data on the Black/African American population in and near the I-94 East-West Corridor study area.

Black/African American	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	253,764	237,761	28,311	2,076	495	2,199	618	428	428	242,464	736	1,952	5,844	29,852
% of population	26.78%	39.98%	30.96%	4.47%	3.30%	3.64%	5.89%	10.05%	10.05%	34.35%	20.60%	21.90%	28.30%	24.64%

The following chart provides a visual representation of the Black or African American Population Percentages in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

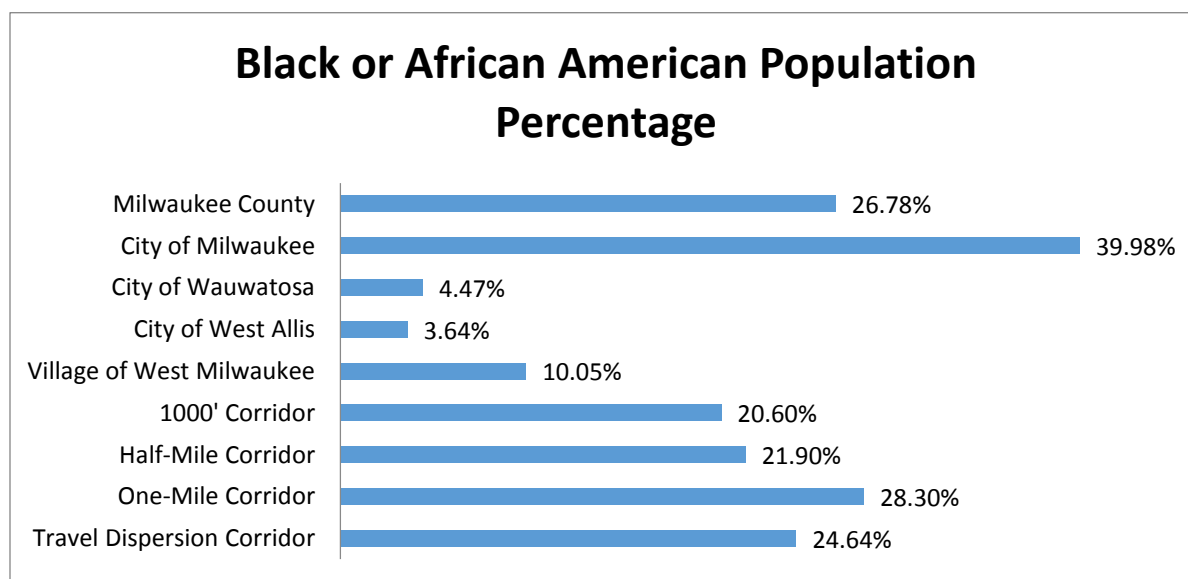
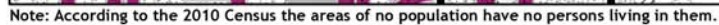


Exhibit 6 illustrates where Black or African American populations live within the study corridor. Within the half-mile corridor around I-94 in the study corridor (one-quarter mile in each direction from I-94), approximately 22 percent of the population identifies themselves as Black or African American. Most of the census blocks containing 60.1 percent to 100.0 percent Blacks or African Americans are located east of US 41 and north of I-94.



4.3.4 American Indian or Alaska Native Population

The following table provides data on the American Indian or Alaska Native population in and near the I-94 East-West Corridor study area.

American Indian or Alaskan Native	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	6,808	4,692	1,078	139	50	648	170	37	37	5,516	44	90	223	1,335
% of population	0.72%	0.79%	1.18%	0.30%	0.33%	1.07%	1.62%	0.87%	0.87%	0.78%	1.23%	1.01%	1.08%	1.10%

The following chart provides a visual representation of the American Indian or Alaska Native Population Percentages in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

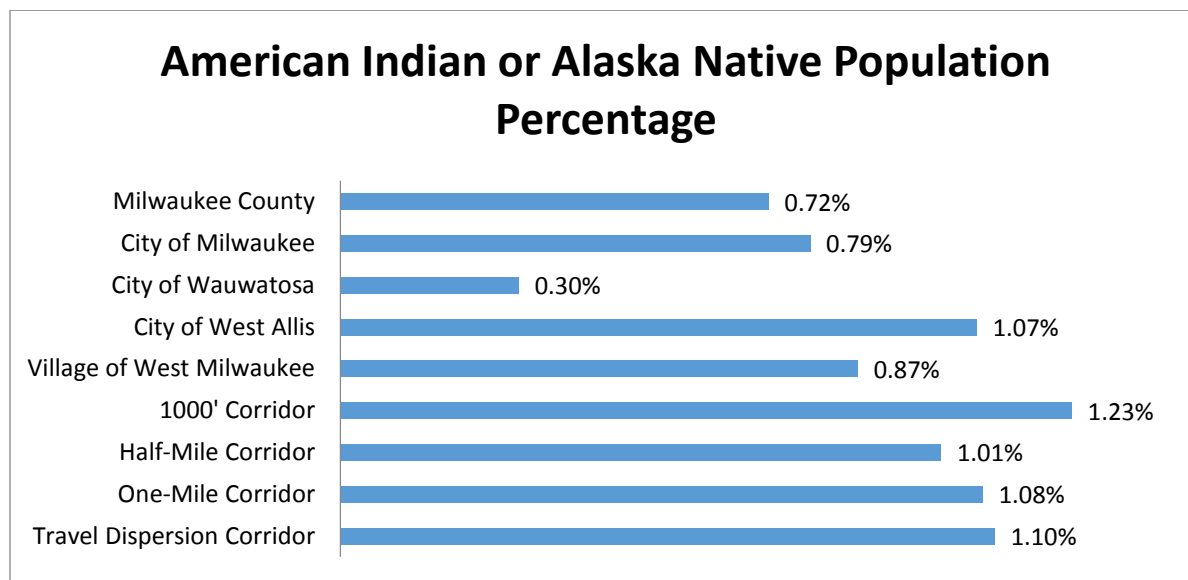
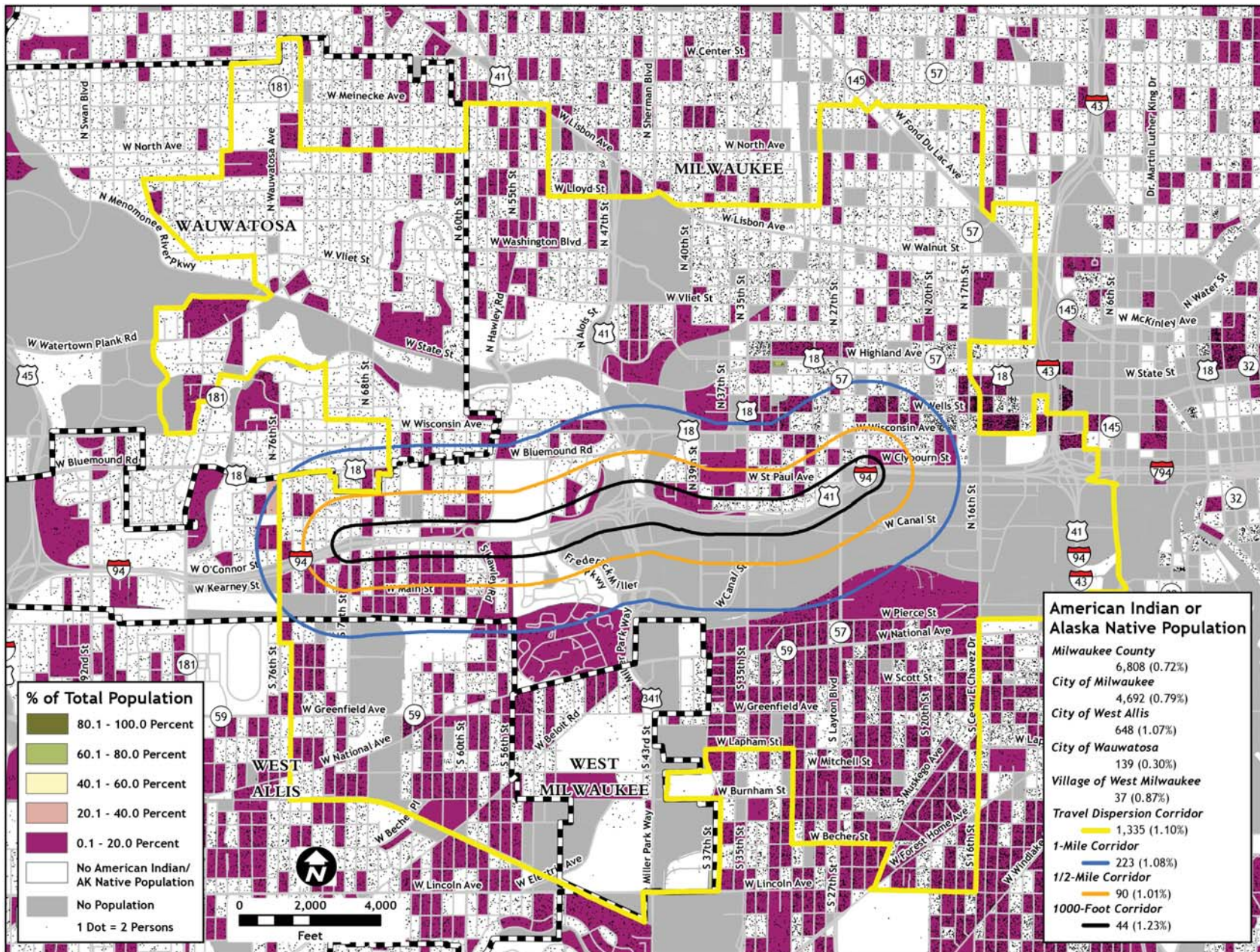


Exhibit 7 illustrates where American Indian or Alaska Native populations live within the study corridor. Within the half-mile corridor around I-94 in the study corridor (one-quarter mile in each direction from I-94), approximately 1 percent of the population identifies themselves as American Indian or Alaska Native. There are no blocks where American Indian or Alaska Native populations make up more than 20.0 percent of the population; however, generally, there are more blocks containing 0.1 to 20.0 percent south of I-94.



4.3.5 Asian Population

The following table provides data on the Asian population in and near the I-94 East-West Corridor study area.

Asian	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	32,422	20,847	5,116	1,289	407	1,231	189	138	138	23,505	167	383	702	5,850
% of population	3.42%	3.51%	5.59%	2.78%	2.72%	2.04%	1.80%	3.24%	3.24%	3.33%	4.68%	4.30%	3.39%	4.83%

The following chart provides a visual representation of the Asian Population Percentages in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

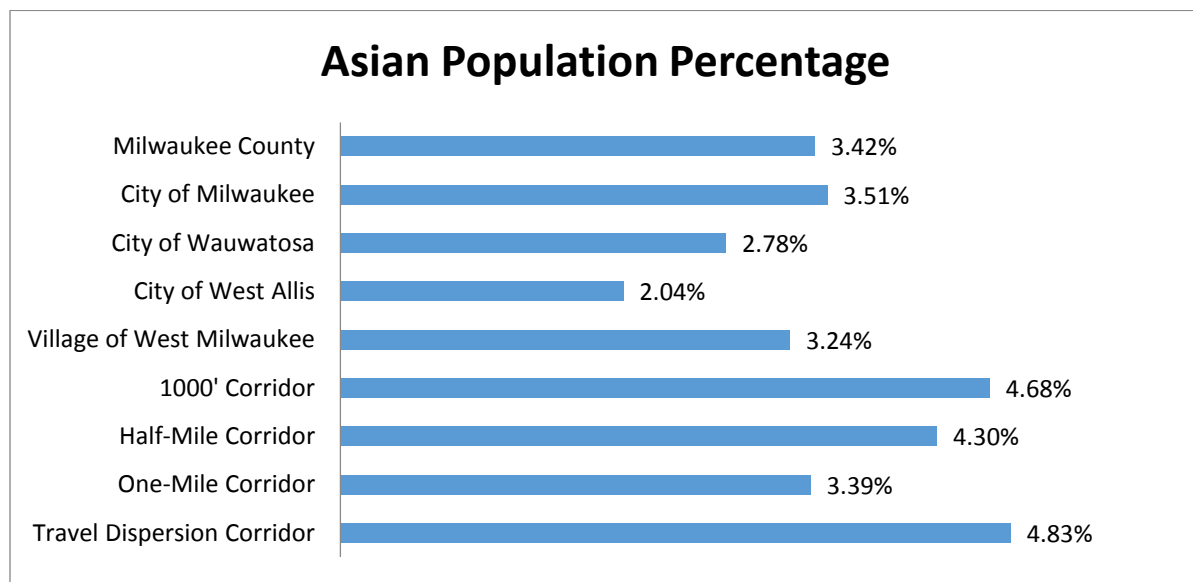


Exhibit 8 illustrates where American Asian populations live within the study corridor. Within the half-mile corridor around I-94 in the study corridor (one-quarter mile in each direction from I-94), approximately 4 percent of the population identifies themselves as Asian. Asian populations are generally evenly spread throughout the corridor and in most cases make up less than 20.1 percent of each block. There is a population cluster of multiple blocks with populations over 40.1 percent located south of Lisbon Avenue and north of Vliet Street between 35th Street and 27th Street.



Note: According to the 2010 Census the areas of no population have no persons living in them.



4.3.6 Hispanic or Latino Population

The following table provides data on the Hispanic or Latino population in and near the I-94 East-West Corridor study area. It should be noted that 'Hispanic' is an ethnic group and not a race category, and is expressed separately from race in the data. Thus, Hispanic persons are also White, Black, etc., in addition to being Hispanic. Total minority population was calculated as the sum of all non-white race groups, plus Hispanics indicating their race as 'White.'

Hispanic or Latino Alone	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	126,039	102,985	29,221	1,450	455	5,770	1,819	1,098	1,098	111,303	498	1,327	2,655	32,593
% of population	13.30%	17.32%	31.95%	3.12%	3.04%	9.55%	17.35%	25.78%	25.78%	15.77%	14.00%	14.90%	12.80%	26.90%

The following chart provides a visual representation of the Hispanic or Latino Population Percentages in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

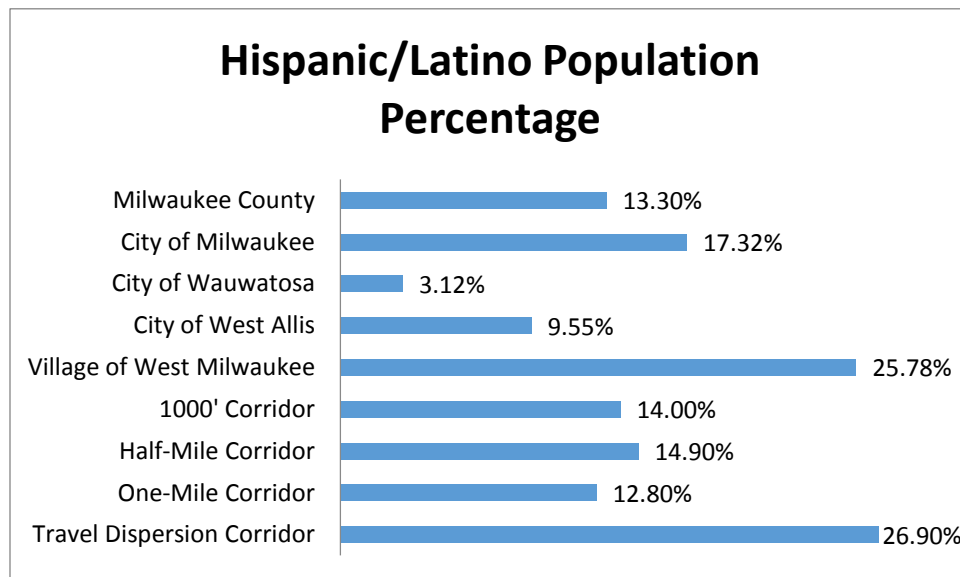
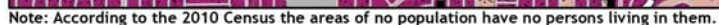


Exhibit 9 illustrates where Hispanic or Latino populations live within the study corridor. Within the half-mile corridor around I-94 in the study corridor (one-quarter mile in each direction from I-94), approximately 15 percent of the population identifies themselves as Hispanic or Latino. Hispanic and Latino populations can be found in nearly every block across the study area at some capacity. The area of highest Hispanic or Latino concentration is east of WIS 341 (Miller Park Way) and south of I-94. Most of the blocks in this area are 60.1 to 100.0 percent Hispanic or Latino.



4.3.7 Hawaiian Native and other Pacific Islander Population

The following table provides data on the Hawaiian Native and other Pacific Islander population in and near the I-94 East-West Corridor study area.

Hawaiian or Pacific Islander	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	363	241	41	28	4	19	6	2	2	290	2	4	13	53
% of population	0.04%	0.04%	0.04%	0.06%	0.03%	0.03%	0.06%	0.05%	0.05%	0.04%	0.05%	0.04%	0.06%	0.04%

The following chart provides a visual representation of the Hawaiian Native or other Pacific Islanders Population Percentages in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

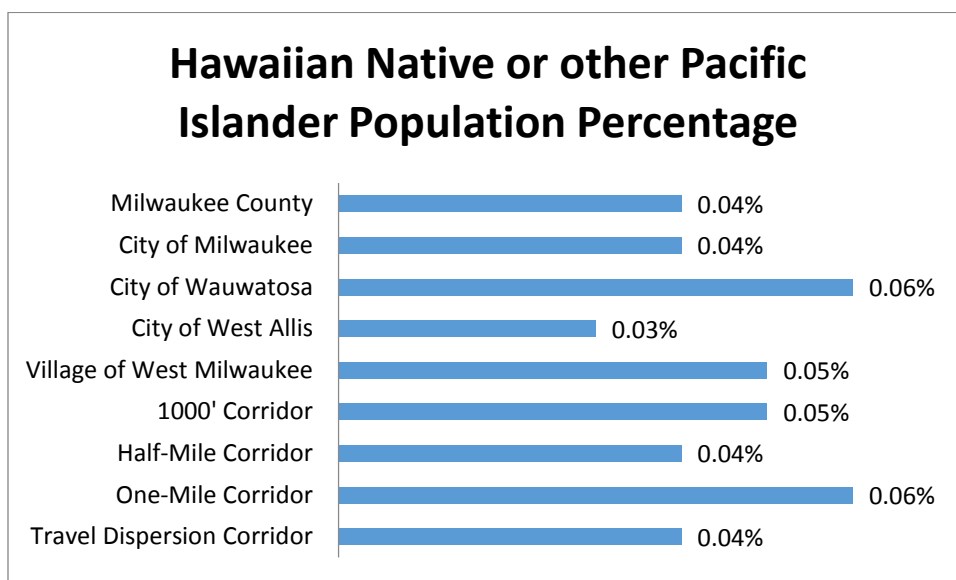
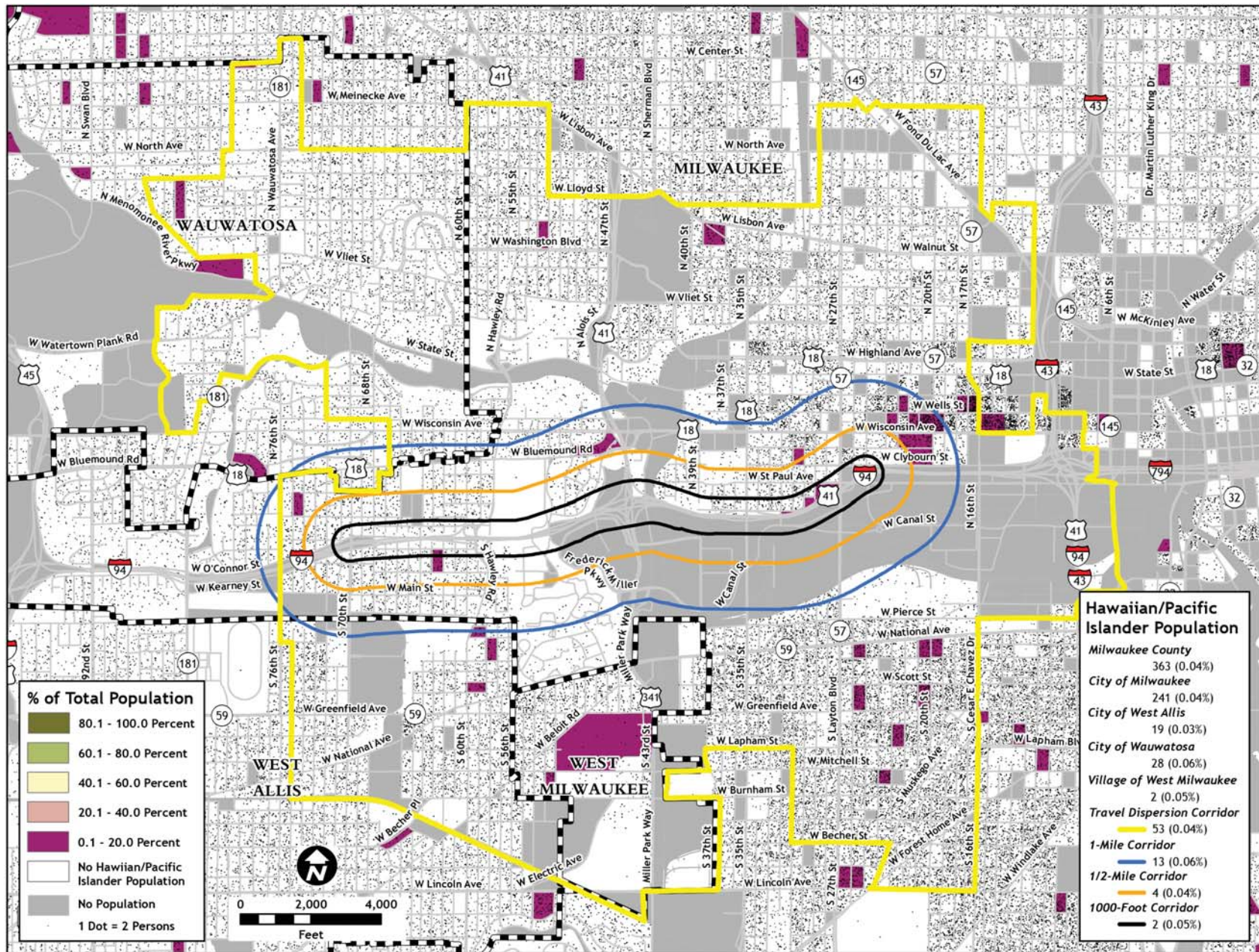


Exhibit 10 illustrates where Native Hawaiian or other Pacific Islander populations are located within the study corridor. Within the half-mile corridor around I-94 in the study corridor (one-quarter mile in each direction from I-94), approximately 0.04 percent of the population identifies themselves as Hawaiian Native or Other Pacific Islander. There are two small population clusters with multiple blocks showing 0.1 to 20.0 percent Native Hawaiian or other Pacific Islander east of US 41 and WIS 341 (Miller Park Way). The clusters are located along Wisconsin Avenue between 27th Street and 16th Street and National Avenue between 20th Street and 16th Street.



Note: According to the 2010 Census the areas of no population have no persons living in them.



4.3.8 Some Other Race Population

The following table provides data on the Some Other Race population in and near the I-94 East-West Corridor study area. Some Other Race populations include all other Census responses not included in the “White,” “Black or African American,” “American Indian and Alaska Native,” “Asian,” and “Hawaiian and other Pacific Islander” race categories described above. Respondents provided write-in entries such as multiracial, mixed, interracial, or a Hispanic/Latino group (for example Mexican, Puerto Rican, or Cuban) in the Some Other Race category.

Some Other Race	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	51,429	44,647	14,050	296	75	2,155	803	519	519	67,017	210	571	1,156	15,447
% of population	5.43%	7.51%	15.36%	0.64%	0.50%	3.57%	7.66%	12.19%	12.19%	9.49%	5.89%	6.41%	5.59%	12.75%

The following chart provides a visual representation of the Some Other Race Population Percentages in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

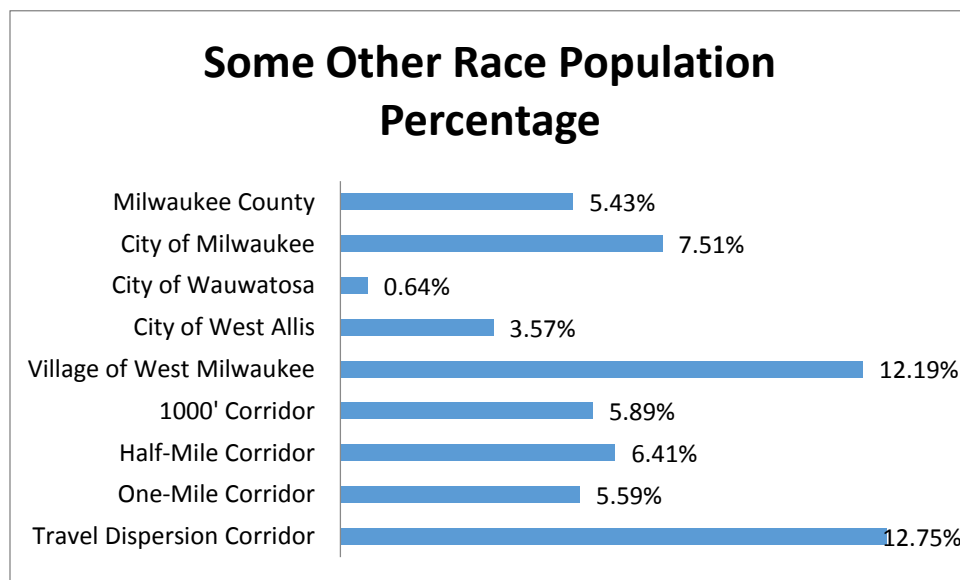
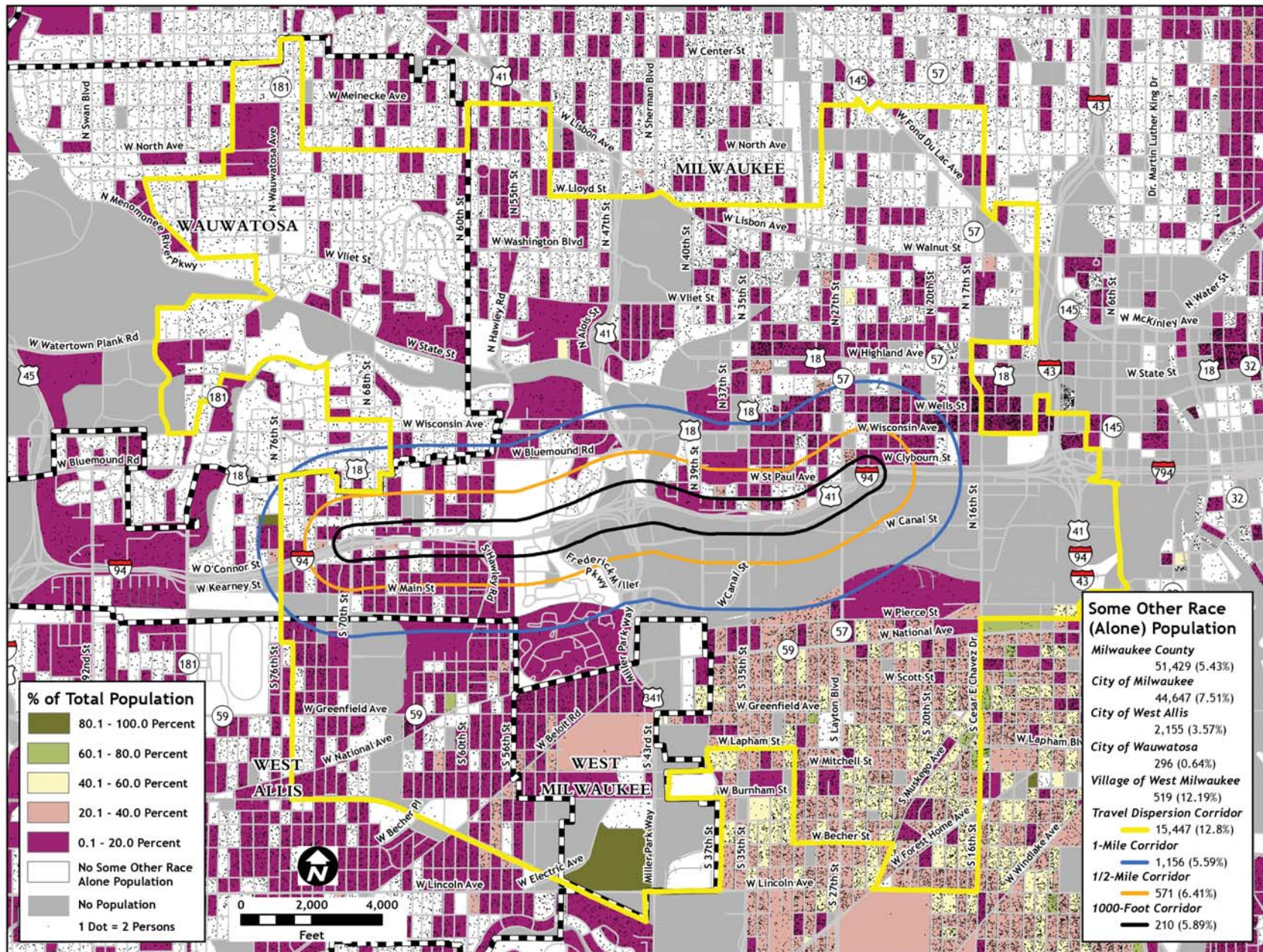


Exhibit 11 illustrates where Some Other Race populations are located within the study corridor. Within the half-mile corridor around I-94 in the study corridor (one-quarter mile in each direction from I-94), approximately 6 percent of the population identifies themselves as Some Other Race. The area with the highest percentages of some other race is located east of WIS 341(Miller Park Way) and south of I-94 where most blocks are between 20.1 and 60.0 percent some other race. Smaller percentages of some other race populations can be found scattered throughout the study area.



Note: According to the 2010 Census the areas of no population have no persons living in them.



4.3.9 Two or More Races Population

The following table provides data on the Two or More Races population in and near the I-94 East-West Corridor study area.

Two Or More Races	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	28,293	20,286	3,851	1,000	347	1,763	535	181	181	23,203	144	432	840	4,914
% of population	2.99%	3.41%	4.21%	2.15%	2.32%	2.92%	5.10%	4.25%	4.25%	3.29%	4.04%	4.85%	4.06%	4.06%

The following chart provides a visual representation of the Two or More Races Population Percentages in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

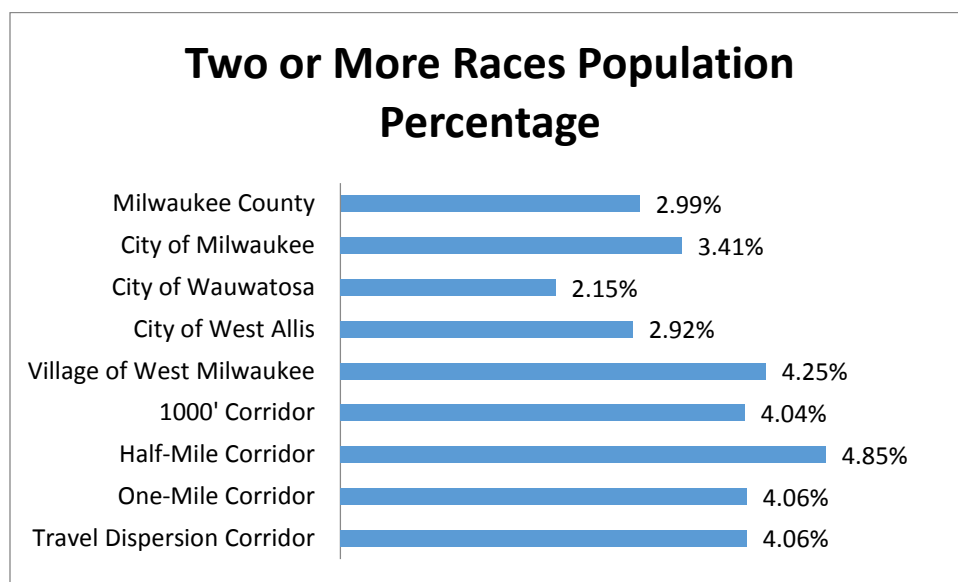
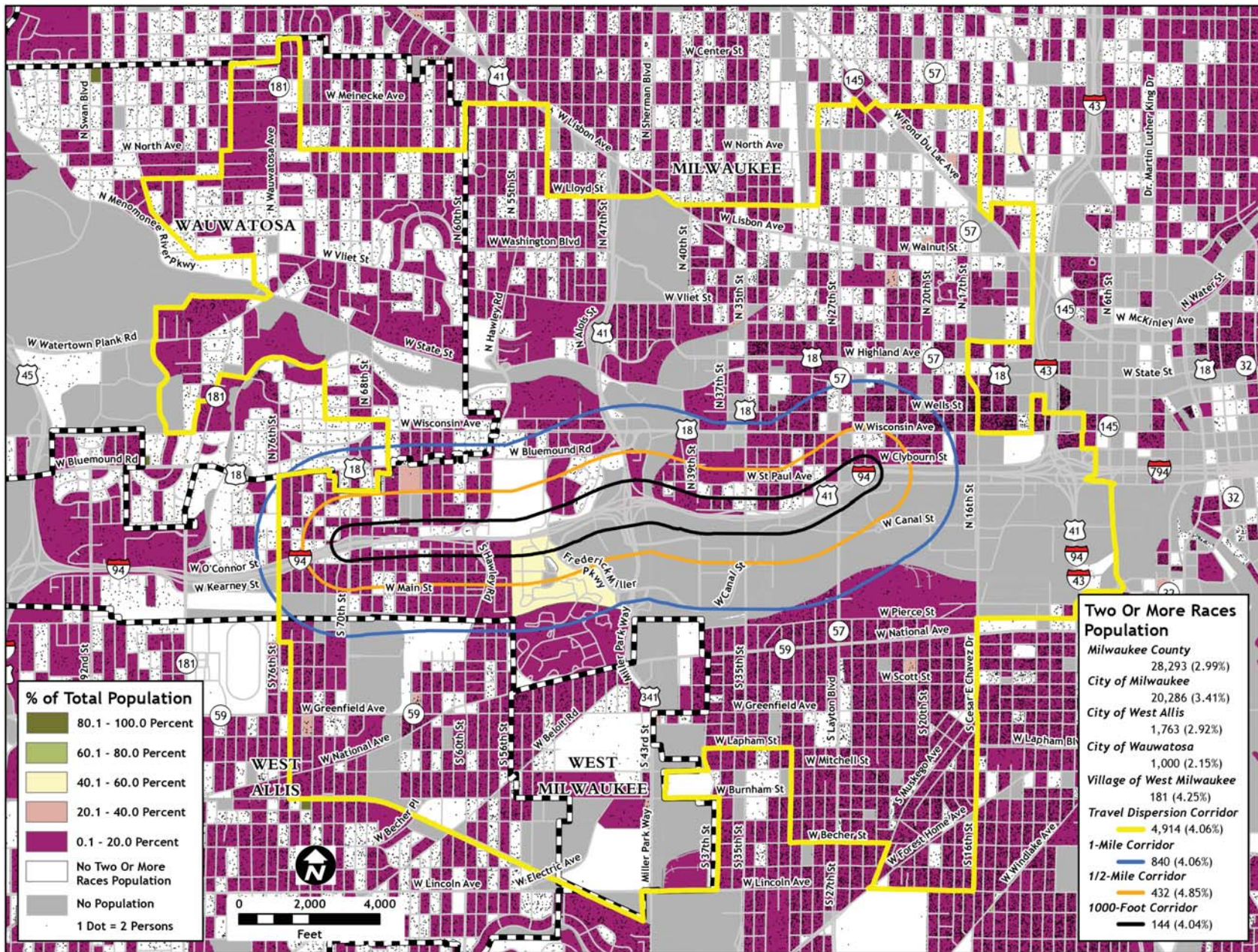
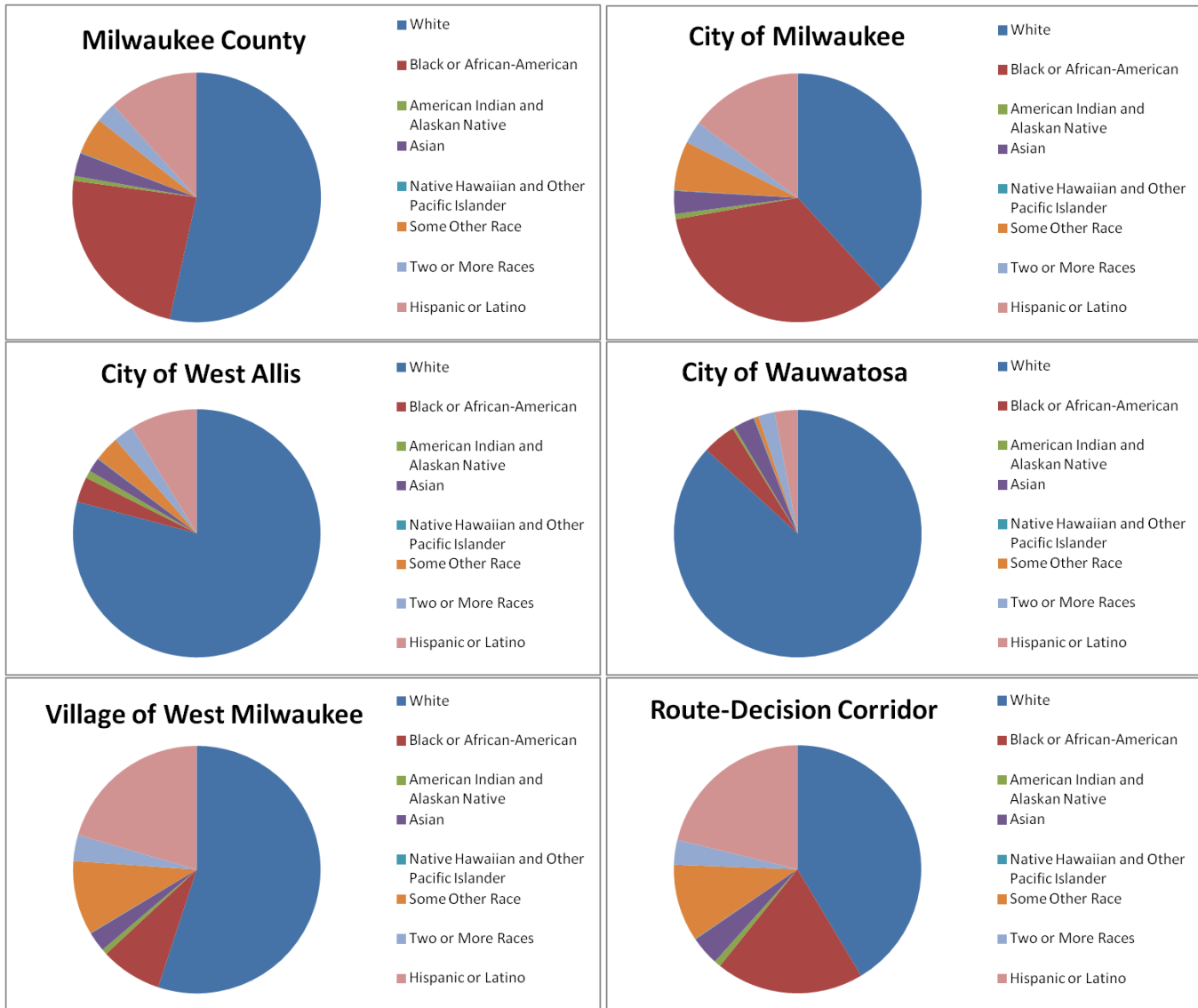


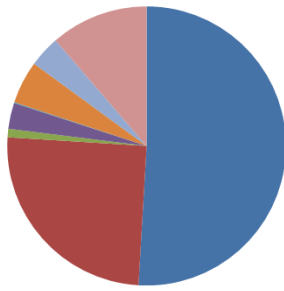
Exhibit 12 illustrates where Two or More Race populations are located within the study corridor. Within the half-mile corridor around I-94 in the study corridor (one-quarter mile in each direction from I-94), approximately 5 percent of the population identifies themselves as two or more races. Two or More Race populations are scattered throughout the corridor. Of the blocks that contained Two or More Race populations most were 0.1 to 20.0 percent.



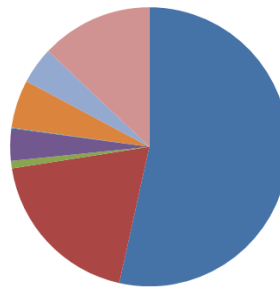
4.3.10 Minority Population Breakdown

The following charts depict the minority breakdown within the study bands, Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee. In each case, Black or African Americans represent the largest minority population, followed by the Hispanic population, Asian population, American Indian/Alaskan Native population, and then Hawaiian Native/Other Pacific Islander. Percentages for each minority group can be found above in the discussion of each respective race or ethnic group.

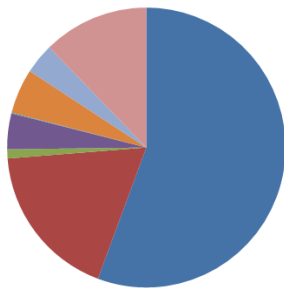


1-Mile Corridor

- White
- Black or African-American
- American Indian and Alaskan Native
- Asian
- Native Hawaiian and Other Pacific Islander
- Some Other Race
- Two or More Races
- Hispanic or Latino

½-Mile corridor

- White
- Black or African-American
- American Indian and Alaskan Native
- Asian
- Native Hawaiian and Other Pacific Islander
- Some Other Race
- Two or More Races
- Hispanic or Latino

1,000-Foot Corridor

- White
- Black or African-American
- American Indian and Alaskan Native
- Asian
- Native Hawaiian and Other Pacific Islander
- Some Other Race
- Two or More Races
- Hispanic or Latino

4.4 Low-Income Populations

Four indicators of low-income populations were analyzed in full because they directly account for income level or poverty in a given area. They include:

- Mean Income
- Families Receiving Public Income Assistance
- Poverty
- Families Below Poverty Level

Several other indicators of low-income populations were analyzed to supplement the above indicators. These supplemental indicators demonstrate characteristics of low-income populations without specifically accounting for income level or poverty. They include:

- Immigrant populations
- Household characteristics
- Transportation
- Persons with disabilities
- Housing Characteristics
- Educational Attainment

Data for low-income indicators is provided at the census tract level. The census tract is the smallest geographical entity for which income data is collected. Low-income indicator data was collected from the 2010 Census and 2011 American Community Survey (ACS) 5-year estimates, where applicable.

4.4.1 Mean Household Income

The following table provides data on the mean household income in and near the I-94 East-West Corridor study area.

Mean Household Income	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	\$43,894	\$36,473	\$29,910	\$69,031	\$71,785	\$45,607	\$37,588	\$37,224	\$37,224	\$38,925	\$37,105	\$34,077	\$31,842	\$33,455

The following chart provides a visual representation of the mean household income in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

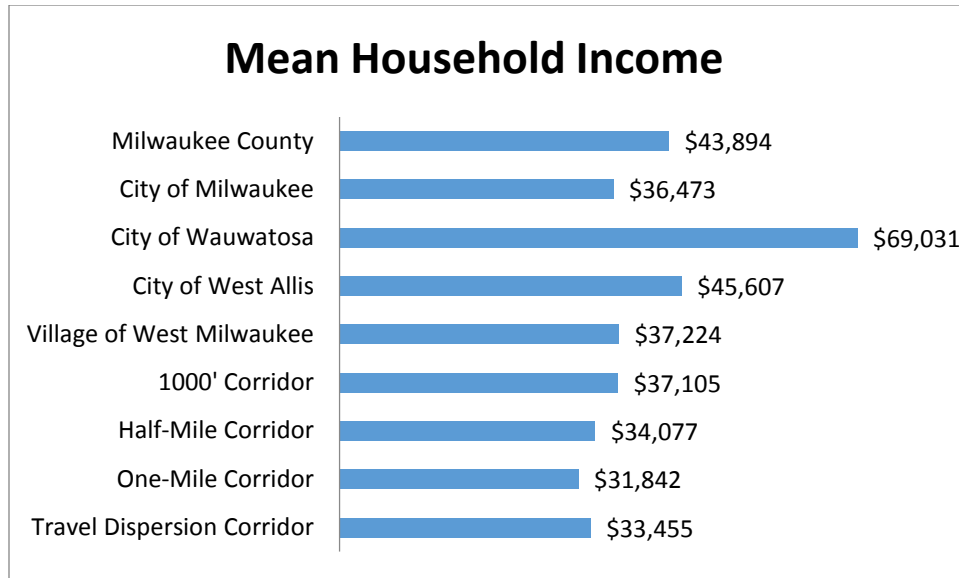


Exhibit 13 illustrates the mean household income within the study corridor. Generally, households east of 35th Street, north and south of I-94, have a mean household income of \$35,000 or less. Households to the west of 35th Street generally have a mean household income ranging from \$35,001 to \$75,000. However, there is a cluster of blocks between 75th Street and 70th Street south of the West Allis/Milwaukee boundary and north of W. Burnham Street which have a mean household income of \$35,000 or less. The Veteran's Administration (VA) Campus also has a mean household income of \$35,000 or less. Two census tracts in Wauwatosa have a mean household income of \$75,001 to \$100,000.

4.4.2 Families Receiving Public Income Assistance

The following table provides data on families receiving public income assistance in and near the I-94 East-West Corridor study area.

Families Receiving Public Income Assistance	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	16,990	13,998	2,387	209	9	707	127	31	31	14,945	307	474	891	2,554
% of population	7.75%	10.69%	12.91%	1.79%	0.34%	4.84%	5.25%	3.24%	3.24%	9.45%	9.20%	12.19%	9.03%	10.42%

The following chart provides visual representation of the families receiving public income assistance in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

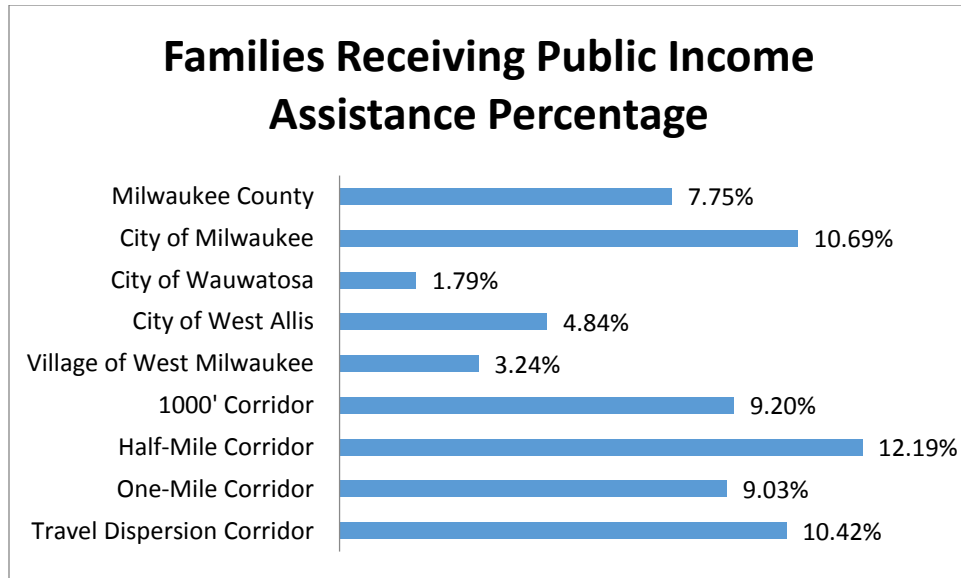
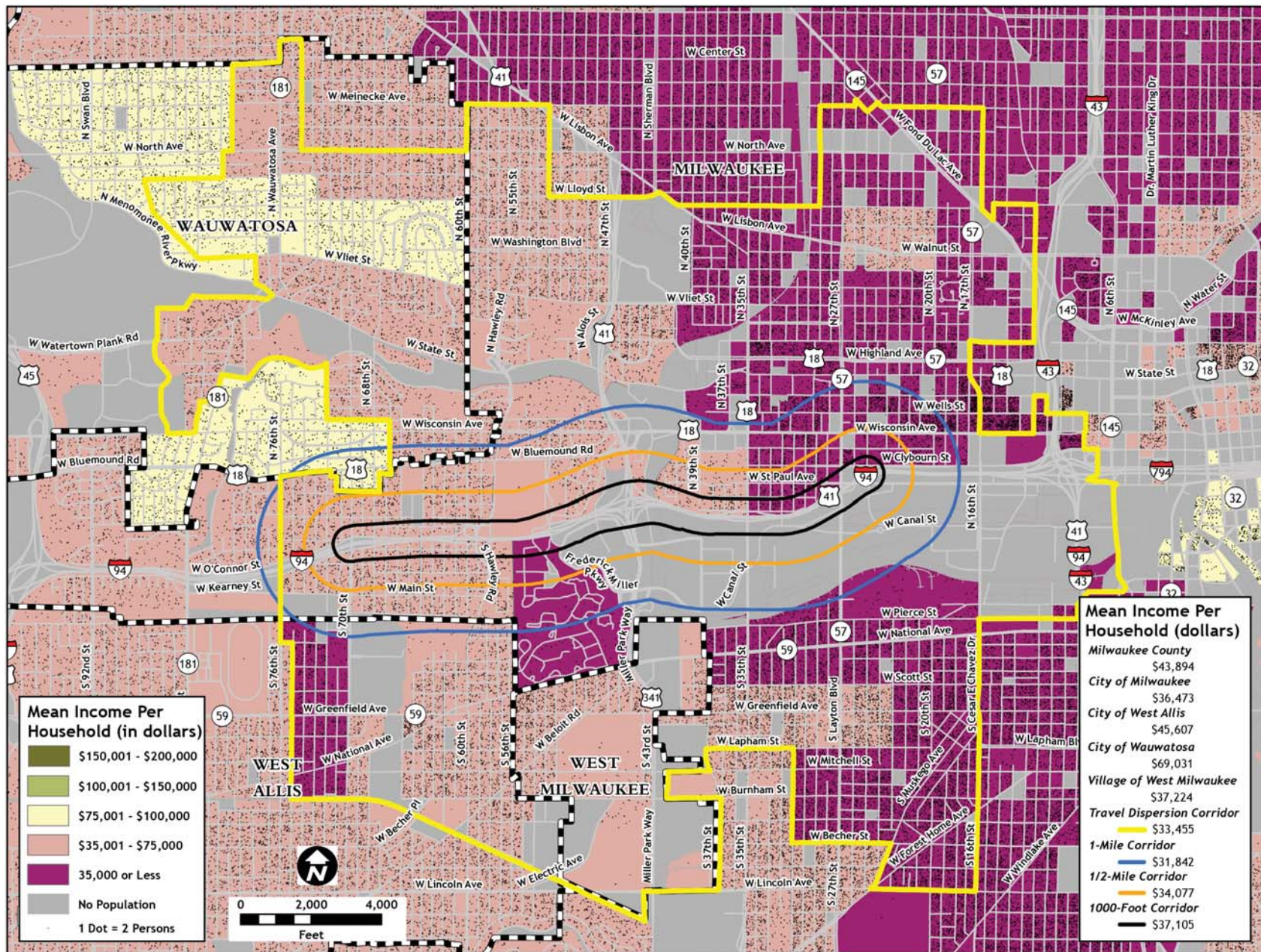
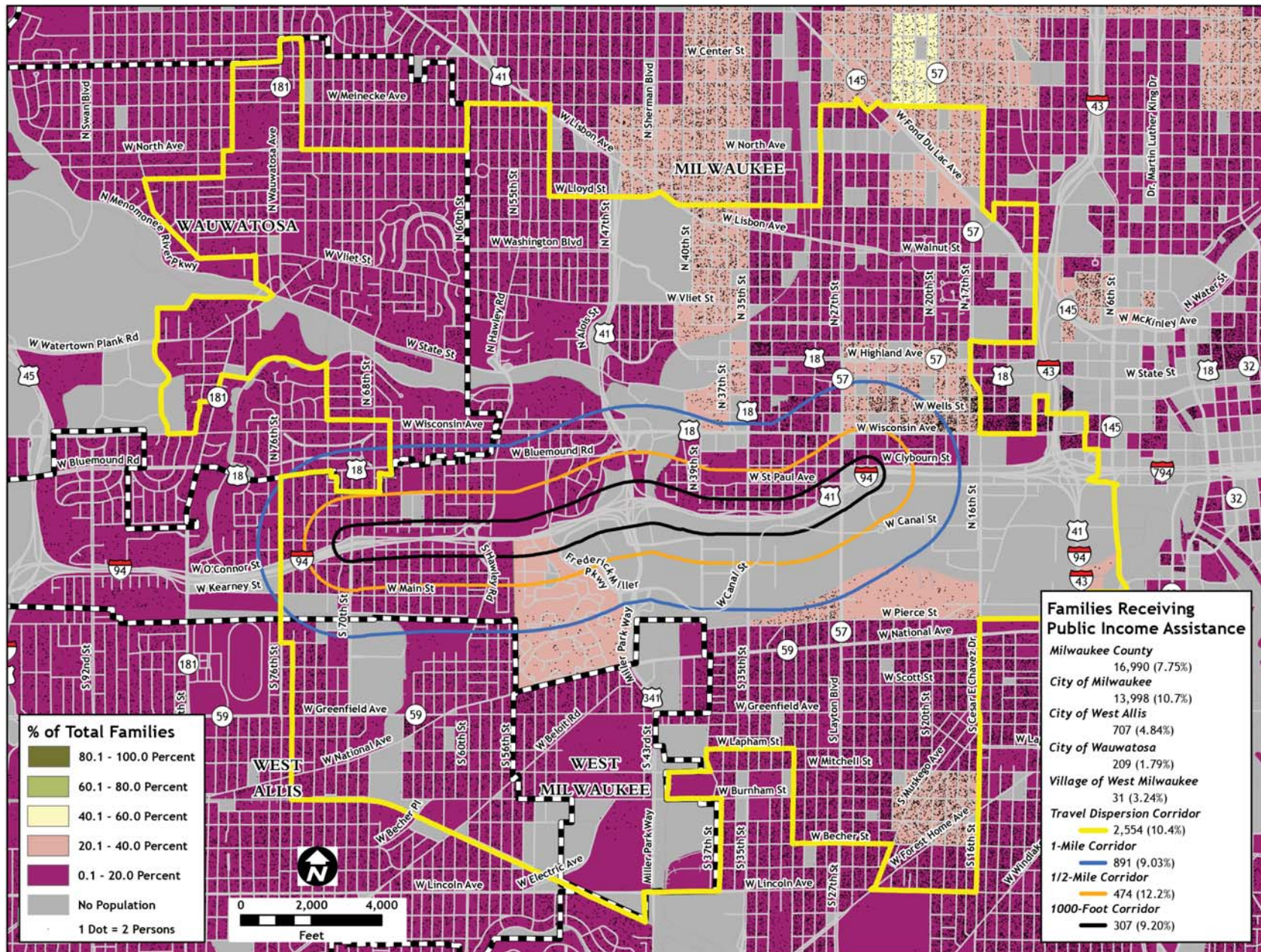


Exhibit 14 illustrates where families receiving public income assistance are located. Every tract has families receiving public income assistance. Most tracts are 0.1 to 20.0 percent families receiving public assistance. Tracts with 20.1 to 40.0 percent east US 41 and WIS 341 (Miller Park Way) are located between US 41 and 35th Street, along Highland Avenue and Wisconsin Avenue, along Fond Du Lac Avenue, north of Pierce Street, and along Forest Home Avenue. West of WIS 341 (Miller Park Way) only the VA Campus tract has a percentage between 20.1 to 40.0 percent.



Note: According to the 2010 Census the areas of no population have no persons living in them.





Note: According to the 2010 Census the areas of no population have no persons living in them.



Exhibit 14

Families Receiving Public Income Assistance In I-94 Corridor I-94 East-West Study Environmental Justice Plan & Preliminary Analysis

4.4.3 Poverty

The following table provides data on persons living below the poverty level in and near the I-94 East-West Corridor study area. The U.S. Department of Health and Human Services (HHS) annually publishes poverty guidelines to determine financial eligibility for certain programs. The HS guidelines are a simplification of the U.S. Census Bureau's poverty thresholds for use for administrative purposes; for instance, determining financial eligibility for certain federal programs. According to the HHS guideline, in 2013 a household containing four persons was considered to be living in poverty if the total income of the family was less than \$23,550. The Census Bureau's Poverty Guidelines were used for this analysis. See Appendix #3 Census 2010 Definition of Subject Characters.

Persons Below Poverty Level	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	176,196	150,979	32,226	2,212	857	7,016	1,992	704	704	160,911	4,074	5,976	11,026	35,779
% of population	19.25%	26.21%	32.88%	4.90%	7.78%	11.84%	19.36%	16.68%	16.68%	23.50%	25.00%	30.10%	34.70%	31.02%

The following chart provides visual representation of the persons below poverty level in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

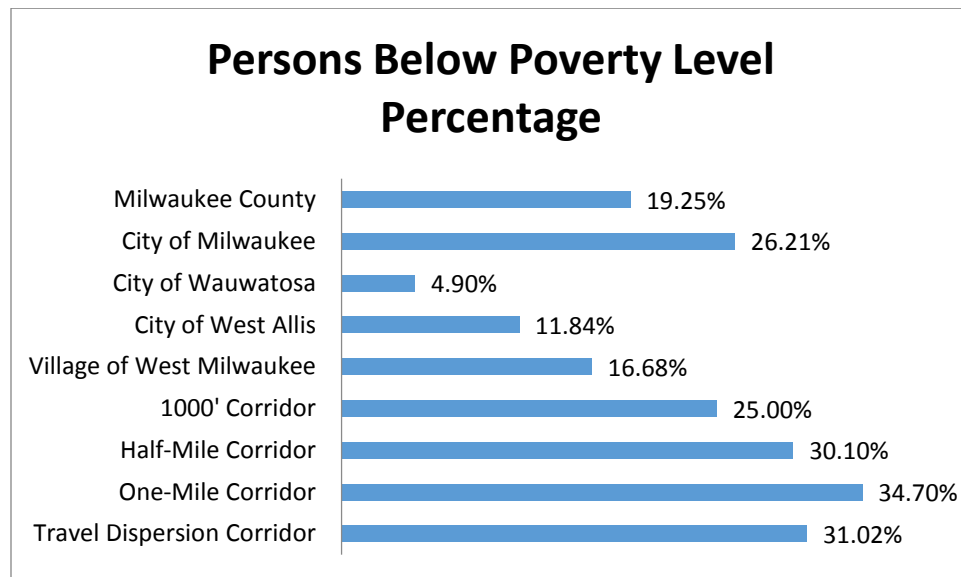
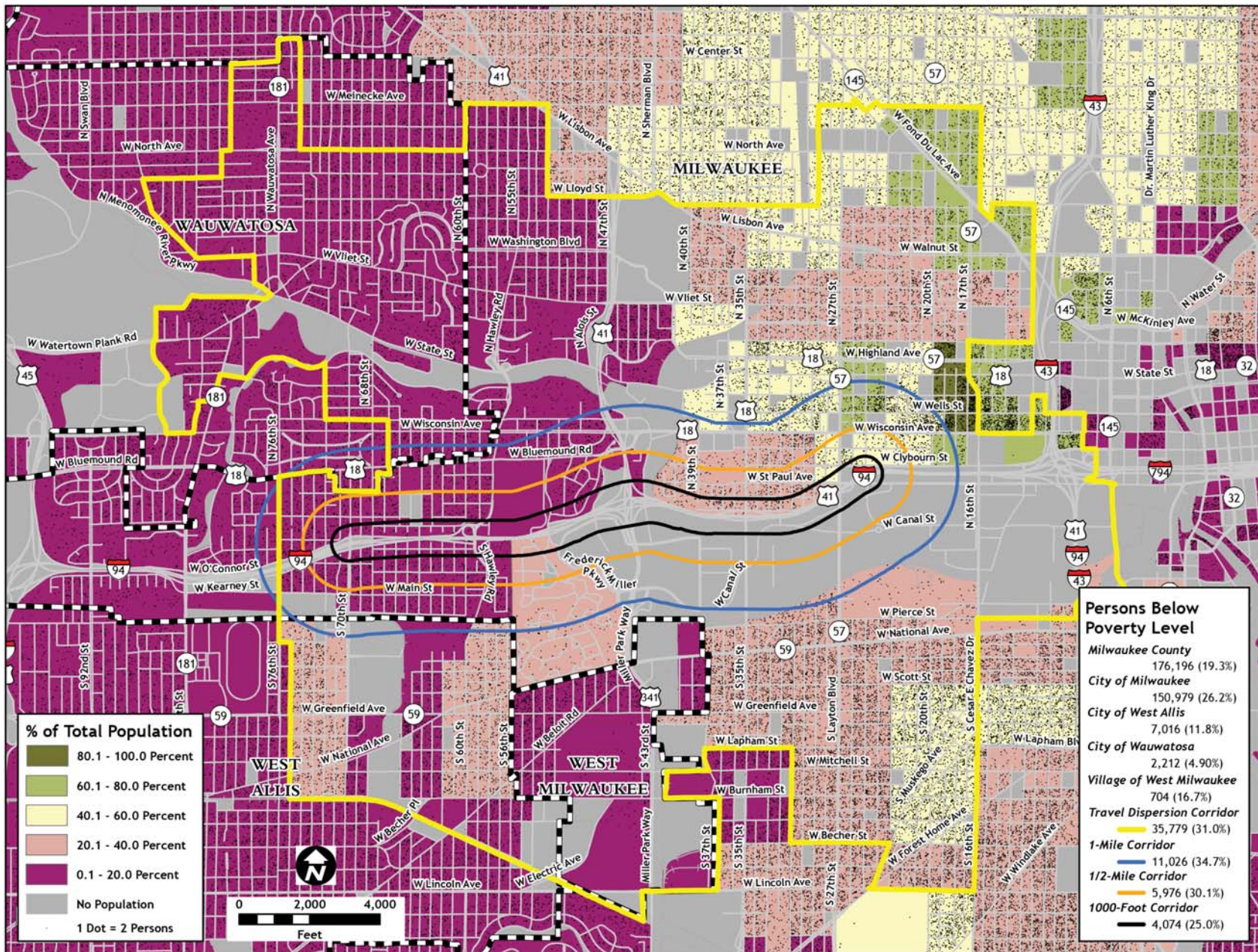


Exhibit 15 illustrates where persons below the poverty level are located within the study corridor. The areas with the highest percent of persons below the poverty level (60.1 to 100.0 percent) are located east of US 41 along Wisconsin Avenue, Wells Street, Highland Avenue, and Fond Du Lac Avenue.



Note: According to the 2010 Census the areas of no population have no persons living in them.



4.4.4 Families Below Poverty Level

The following table provides data on families living below the poverty level in and near the I-94 East-West Corridor study area.

Families In Poverty	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
		Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	64,505	45,169	6,280	1,989	422	3,470	713	229	229	50,857	1,068	1,148	2,736	7,644
% of population	29.43%	34.51%	33.97%	17.00%	24.03%	23.77%	29.94%	22.93%	22.93%	32.16%	32.00%	29.51%	27.73%	31.18%

Below is a visual representation of the families below poverty level in the study bands, compared to Milwaukee County, City of Milwaukee, City of Wauwatosa, City of West Allis, and Village of West Milwaukee.

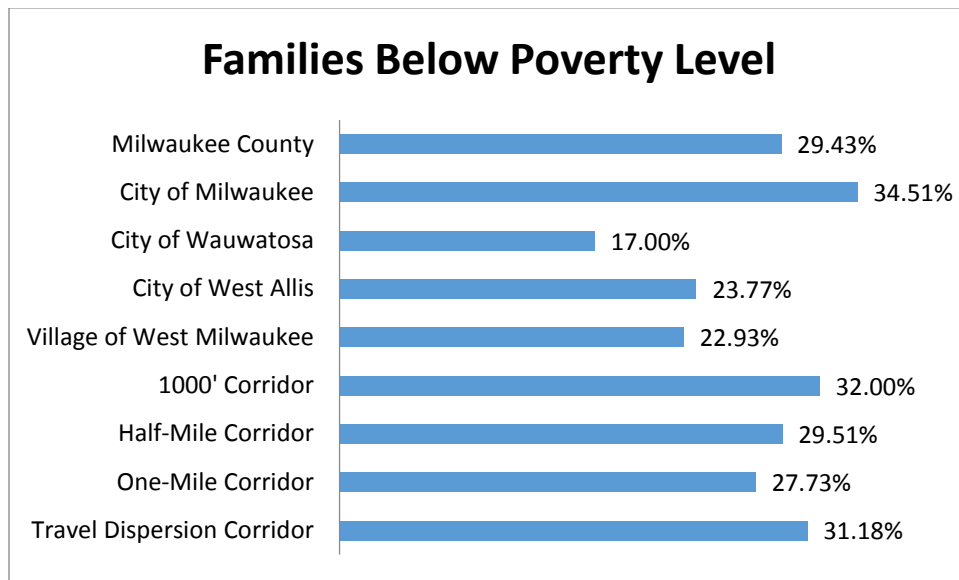
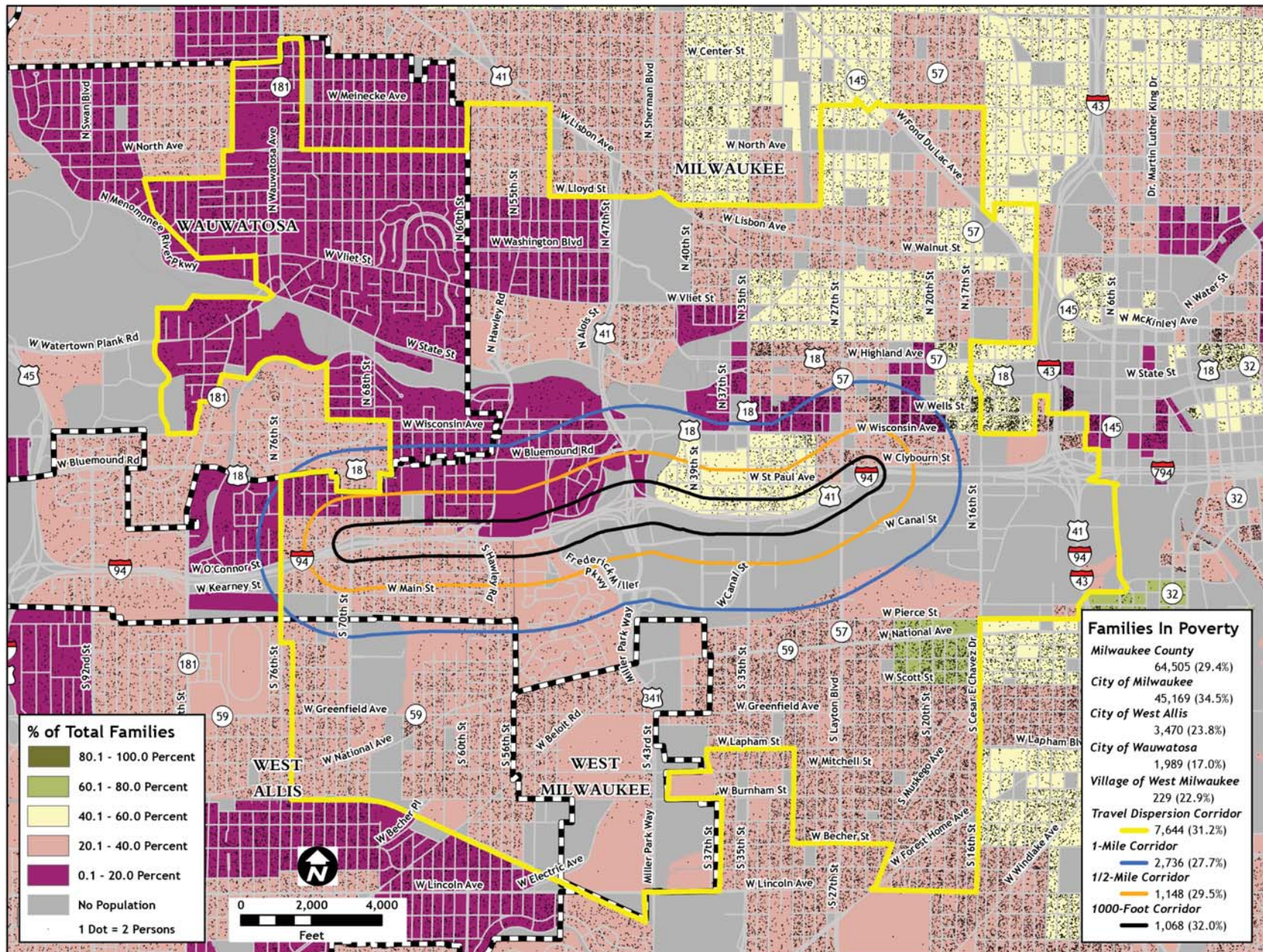


Exhibit 16 illustrates where families below the poverty level are located within the study corridor. The tract with the highest percentage of families below the poverty level (60.1 to 80.0 percent) is located between 23rd Street and 16th Street south of Pierce Street and north of Scott Street. All other tracts within the travel dispersion corridor are below 60 percent.



Note: According to the 2010 Census the areas of no population have no persons living in them.



4.5 Other Pertinent Demographic Information

4.5.1 Immigration

Foreign Born	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	80,336	57,379	16,085	2,351	411	2,770	719	524	524	63,024	1,855	2,136	3,599	17,739
% of population	8.56%	9.69%	17.28%	5.09%	3.73%	4.62%	6.87%	12.40%	12.40%	8.97%	10.36%	9.82%	7.07%	14.93%

Not A U.S. Citizen	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	32,015	23,571	5,627	622	134	1,744	410	181	181	26,118	936	1,064	1,939	5,992
% of population	3.41%	3.98%	5.66%	1.35%	1.22%	2.91%	3.92%	4.28%	4.28%	3.71%	5.23%	4.89%	3.81%	5.04%

Primary Language Not English	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	136,393	103,486	27,726	2,740	627	4,456	1,211	998	998	111,680	3,054	3,686	5,996	30,562
% of population	14.50%	17.48%	29.78%	5.93%	5.69%	7.54%	11.57%	23.64%	23.64%	15.89%	17.06%	16.95%	11.77%	25.72%

Speaks English Less Than Very Well	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	58,690	47,712	15,076	698	116	1,617	655	385	385	50,412	1,392	1,567	2,648	16,232
% of population	6.30%	8.06%	16.19%	1.51%	1.05%	2.69%	6.26%	9.12%	9.12%	7.17%	7.77%	7.21%	5.20%	13.66%

4.5.2 Household Characteristics

Average Household Size	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Number of People	2.48	2.59	2.69	2.26	2.24	2.17	2.26	2.14	2.14	2.54	2.00	2.03	2.09	2.61

Households With Children	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Households	107,426	68,491	10,592	5,417	1,260	6,466	1,189	474	474	80,848	1,565	1,879	4,880	13,515
% of households	28.01%	29.63%	32.55%	26.50%	25.22%	23.55%	25.68%	23.61%	23.61%	28.77%	21.14%	20.34%	22.24%	30.60%

Single Parents	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	51,210	40,091	6,130	1,254	293	2,636	579	225	225	44,206	837	1,073	2,587	7,227
% of population	13.35%	17.35%	18.84%	6.14%	5.86%	9.60%	12.51%	11.21%	11.21%	15.73%	11.31%	11.62%	11.79%	16.36%

4.5.3 Transportation

No Vehicle Available	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Occupied Housing Units	51,023	40,044	7,494	1,332	347	3,064	935	355	355	44,795	1,470	1,953	4,789	9,131
% of occupied housing units	13.45%	17.32%	23.08%	6.68%	7.04%	11.15%	20.30%	15.92%	15.92%	15.94%	19.80%	21.71%	22.37%	20.64%

Take Public Transportation To Work	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	25,159	21,752	3,471	456	108	924	343	56	56	23,188	499	761	1,919	3,978
% of population	5.79%	8.43%	9.46%	1.88%	1.80%	2.96%	6.62%	2.65%	2.65%	7.34%	5.64%	7.47%	7.97%	7.96%

4.5.4 Disability

Disability Status of the Civilian Non-institutionalized Population	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area *minus the Village of West Milwaukee	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Number of people	117,109	78,577	n/a	4,167	n/a	7,234	n/a	n/a	n/a	89,978	n/a	n/a	n/a	n/a
% of civilian non-institutionalized population	12.47	13.30	n/a	9.09	n/a	12.07	n/a	n/a	n/a	12.92	n/a	n/a	n/a	n/a

4.5.5 Housing Characteristics

Vacant Housing Units	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Housing Units	34,462	25,380	4,586	1,254	233	1,899	531	169	169	28,702	929	1,328	2,752	5,519
% of housing units	9.07%	10.54%	14.09%	6.14%	4.66%	6.28%	11.47%	7.80%	7.80%	10.21%	12.55%	14.38%	12.54%	12.49%

Mean Gross Rent	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Occupied Units Paying Rent	172,429	120,547	20,787	6,681	1,842	11,423	2,616	1,544	1,544	140,195	4,342	5,735	13,064	26,789
Mean Gross Rent	\$761	\$753	\$683	\$924	\$919	\$709	\$764	\$588	\$588	\$758	\$649	\$641	\$649	\$640

4.5.6 Education

Less Than High School Diploma	Milwaukee County	City of Milwaukee		City of Wauwatosa		City of West Allis		Village of West Milwaukee		Municipalities in Study Area	1000' Corridor	Half Mile Corridor	One Mile Corridor	Travel Dispersion Corridor
	Total (Milwaukee County)	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor	Total	In travel dispersion corridor					
Total Population	89,979	69,181	15,435	1,770	238	4,636	1,083	468	468	76,055	1,746	2,213	4,925	17,224
% of population	9.59%	11.68%	16.58%	3.83%	2.16%	7.73%	10.35%	11.09%	11.09%	10.82%	9.75%	10.18%	9.67%	14.50%

5 Outreach

Outreach on the I-94 East-West Corridor Study will be ongoing. Preliminary groups and stakeholders have been identified below; this is a living list and will be updated throughout the duration of the project.

Project staff will contact and arrange to meet with identified stakeholders to inform them of the study, solicit information and input on the study, and to equip them with information regarding upcoming Public Information Meetings and other opportunities for their membership to provide input about the project. Post-meeting follow-up will include database additions for mailed and electronic newsletters to keep them informed of the project status and timeline.

Additionally, diverse stakeholders will be identified and invited to participate in the Community Advisory Committee for the I-94 East-West Corridor Study.

Community Organization & Neighborhood Association Outreach

Organization Name	Address	Phone Number
African-American Chamber of Commerce	6203 W. Capitol Drive, Milwaukee, WI 53216	414-462-9450
Hispanic Chamber of Commerce	1021 W. National Avenue, Milwaukee, WI 53204	414-643-6963
NAACP	2745 N. Martin Luther King Drive Milwaukee, WI 53212	414-562-1000
Latino Health Coalition	611 W. National Avenue, Suite 409 Milwaukee, WI 53204	414-384-2673
Milwaukee Urban League	425 W. North Avenue Milwaukee, WI 53212	414-374-5850
Menomonee Valley Partners	301 W. Wisconsin Avenue Suite 400B, Milwaukee, WI 53203	414-276-4655
30 th Street Industrial Corridor Business Improvement District	PO Box 16498 Milwaukee, WI 53216	414-444-4706
Silver City (Layton Blvd West Neighbors)	1515 S. Layton Blvd.	414-383-9038
Historic Concordia Neighborhood	W. Wisconsin Avenue to W. Highland Blvd, N. 35 th Street to N. 27 th Street	414-931-7597
Story Hill Neighborhood Association	317 N. 50 th Street, Milwaukee, WI 53208	414-303-3686
Charles Jacobus Park Neighborhood Association	6768 Maple Terrace, Milwaukee, WI 53213	414-507-6769
Washington Heights Neighborhood Association	PO Box 080104, Milwaukee, WI 53208	414-297-9617
Merrill Park Neighborhood Association	3325 W. Michigan Avenue, Milwaukee, WI 53208	414-933-7577
Westtown Association	633 W. Wisconsin Avenue, Milwaukee, WI 53203	414-276-6696
Hmong American Friendship Association	3824 W. Vliet Street, Milwaukee, WI 53208	414-344-6575
UMOS	2701 W. Chase Avenue, Milwaukee, WI 53207	414-389-6600
Boy Scouts of America – Wisconsin	330 S. 84 th Street, Milwaukee, WI 53214	414-774-1776
Girl Scouts of Wisconsin Southeast	131 S. 69 th Street, Milwaukee, WI 53214	414-443-3924

Neighborhoods

Organization Name	Location
Washington Heights Neighborhood	West of US 41, North Avenue to Vliet Street
Wick Field Neighborhood	West of US 41, Vliet Street to State Street
Washington Park Neighborhood	East of US 41, Vliet Street to North Avenue
Martin Drive Neighborhood	East of US 41, Vliet Street to State Street
Valley Park Neighborhood	NE Quadrant of Stadium Interchange
Bluemound Heights	North of I-94, west of Hawley Road
Story Hill	NW Quadrant of Stadium Interchange
Johnson's Woods	South of I-94, west of Hawley Road
The Valley/Pigsville	NE Quadrant of Stadium Interchange
Merrill Park	East of US 41, north of I-94, west of 35 th Street
Historic Concordia Neighborhood	West of 27 th Street to 35 th Street, North of Wisconsin Avenue to Highland Avenue
Jacobus Park	West of US 41, north of I-94, east of 68 th Street

School Outreach

Organization Name	Address	Phone Number
West Milwaukee Middle School	5104 W. Greenfield Avenue, West Milwaukee, WI 53214	414-604-3300
Pius XI High School	135 N. 76 th Street, Milwaukee, WI 53213	414-290-7000
Woodlands School	5510 W. Bluemound Road, Milwaukee, WI	414-475-1600
Marquette University High School	3401 W. Wisconsin Avenue, Milwaukee, WI 53208	414-933-7220
Alston's Preparatory Academy	921 N. 49 th Street, Milwaukee, WI 53208	414-771-2443
Milwaukee Montessori School	6415 W. Mount Vernon Avenue, Milwaukee, WI 53213	414-356-8300
St. Vincent Pallotti Catholic School	201 N. 76 th Street, Milwaukee, WI 53213	414-258-4165
Ebenezer Lutheran School	3102 S. 43 rd Street, Milwaukee, WI 53219	414-384-2916
Pershing Elementary School	1330 S. 47 th Street, West Milwaukee, WI 53214	414-604-4600
St. Leo School	514 N. 31 st Street, Milwaukee, WI 53208	414-933-6070
Burbank School	6035 W. Adler Street, Milwaukee, WI 53214	414-256-8400

Business Outreach

Organization Name	Address	Phone Number
Children's Hospital of Wisconsin	9000 W. Wisconsin Avenue, Milwaukee, WI 53226	414-266-2000
Children's Health Alliance of Wisconsin	620 S. 76 th Street Suite 120, Milwaukee, WI 53212	414-292-4000
Potawatomi Bingo Casino	1721 W. Canal Street, Milwaukee, WI 53233	414-645-6888
Milwaukee Brewers Baseball Club	1 Brewers Way, Milwaukee, WI 53214	414-902-4000
Department of Veterans Affairs	5000 W. National Avenue, Milwaukee, WI 53295	414-384-2000
Wisconsin Humane Society	4500 W. Wisconsin Avenue, Milwaukee, WI 53208	414-364-6257
Miller Coors	4103 W. State Street, Milwaukee, WI 53208	414-931-3552
Wood National Cemetery	5000 W. National Avenue Building 1301, Milwaukee, WI 53295	414-382-5300
Mount Calvary Cemetery	5503 W. Bluemound Road, Milwaukee, WI 53214	414-438-4430
Harley Davidson	3700 W. Juneau Avenue, Milwaukee, WI 53208	414-342-4680
Beth Hamedrosh Hagodel Cemetery	5027 W. North Avenue, Milwaukee, WI 53208	414-871-2232
Wisconsin State Fair Park	640 S. 84 th Street, West Allis, WI 53214	414-266-7000
Pettit National Ice Center	500 S. 84 th Street, Milwaukee, WI 53214	414-266-0100
Joy Global Surface Mining	4400 W. National Avenue, Milwaukee, WI 53214	414-670-4400

Church Outreach

Organization Name	Address	Phone Number
Balm in Gilead for All People	1210 S. 61 st Street, West Allis, WI 53214	414-256-8707
First Spiritualist Church of West Allis	6228 W. Washington Street, West Allis, WI 53214	414-778-0088
Fairview Evangelical Lutheran Church	137 N. 66 th Street, Milwaukee, WI	414-771-2530
Nativity Lutheran Church	6905 W. Bluemound Road, Milwaukee, WI	414-476-1853
Chinese Community Baptist Church	120 N. 73 rd Street, Milwaukee, WI 53213	414-258-2410
St. Vincent Pallotti Church	5424 W. Bluemound Road, Milwaukee, WI 53208	414-453-5344
Free Will Church of God	320 N. 33 rd Street, Milwaukee, WI 53208	414-342-3473
Great Westside Church of God in Christ	2602 W. Auer Street, Milwaukee, WI	414-447-9778
Christian Faith Fellowship Church	724 S. Layton Boulevard, Milwaukee, WI 53215	
Our Savior's Lutheran Church	3022 W. Wisconsin Avenue, Milwaukee, WI 53208	414-342-5252
St. Sebastian Church	5400 W. Washington Boulevard, Milwaukee, WI	414-453-1928

Organization Name	Address	Phone Number
	53208	
Divine word Lutheran Church	5505 W. Lloyd Street, Milwaukee, WI 53208	414-475-3189
Holy Angels Cathedral	1510 N. 70 th Street, Milwaukee, WI 53213	414-774-6420
Matthew's Evangelical Lutheran Church	1615 N. Wauwatosa Avenue, Milwaukee, WI 53213	414-774-0441
Reformation Lutheran Church	2201 N. 35 th Street, Milwaukee, WI 53208	414-444-0440
New Covenant Missionary Church	2315 N. 38 th Street, Milwaukee, WI 53210	414-873-1221

6 Environmental Justice Staff Resources

The following individuals will be involved in implementing the Environmental Justice plan for the I-94 East-West Corridor Study project:

Name, Representing	Role
Dave Nguyen, WisDOT	Project Development Chief
Tony Barth, WisDOT	Project Supervisor
Jason Lynch, WisDOT	Project Manager
Dobra Payant, WisDOT	Deputy Project Manager
Emlynn Grisar, WisDOT	Communications Manager
Brad Heimlich, CH2M Hill	Project Manager
Charlie Webb, CH2M Hill	Project Manager
Ben Goldsworthy, CH2M Hill	Project Manager
Beth Foy, Beth Foy & Associates	Public Involvement
Nancy Hernandez, ABRAZO Marketing	Public Involvement
Helen Dixon, Dixon & Company, Inc.	Public Involvement

7 Timelines, Activities, and Deliverables

Findings in this preliminary assessment will inform the decision-making process in considering potential effects of the identified alternatives, and inform the project study team of community issues and concerns.

Initial deliverables drawn from the assessment include, but are not limited to:

Deliverable / Milestone	Timeframe
Environmental Justice Analysis Report (draft)	Winter 2012/13
Public Involvement Plan	Summer 2012
Conduct Preliminary Outreach (Public Information Meeting #1)	August 2012
Conduct Outreach (Public Information Meetings #2 and #3)	December 2012/ May 3013
Conduct Indirect and Cumulative Effects Focus Group Meeting	June 2013
Combine EJ analysis with preliminary outreach findings, make adjustments to EJ (updates)	Summer 2013
Conduct final outreach to disseminate findings of study (preferred alternative) to community	Fall 2013
Stakeholder Database Development	Ongoing
Media Coordination	Ongoing
Meeting Handouts and Collateral Materials	Ongoing

8 Tentative Methods of Evaluation of Environmental Justice Plan Effectiveness

- Quarterly internal check-in.
- Periodic checks of the current project status against established deliverables listed in section 11 above.
- Surveys – Conducted with the public at various times, diverse types of outreach meetings, small group meetings and online.
- Develop clear, measurable goals – Number of meetings, number of stakeholders added to mailing list, number of inquiries, response to inquiries.
- Comments and requests from minority and low-income advisory committee participants and neighborhood meetings will be incorporated into the development of the project and proposed project alternatives.

Appendix I: Executive Order 12898

Federal Register Presidential Documents

Vol. 59, No. 32

Wednesday, February 16, 1994

Title 3—

The President

Executive Order 12898 of February 11, 1994

Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1—1. Implementation.

1–101. Agency Responsibilities. To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands.

1–102. Creation of an Interagency Working Group on Environmental Justice.

(a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency (“Administrator”) or the Administrator’s designee shall convene an interagency Federal Working Group on Environmental Justice (“Working Group”). The Working Group shall comprise the heads of the following executive agencies and offices, or their designees: (a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor; (e) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate. The Working Group shall report to the President through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy. (b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations; (2) coordinate with, provide guidance to, and serve as a clearing house for, each Federal agency as it develops an environmental justice strategy as required by section 1–103 of this order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner; (3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Housing and Urban Development, and other agencies conducting research or other activities in accordance with section 3–3 of this order; (4) assist in coordinating data collection, required by this order; (5) examine existing data and studies on environmental justice; **Federal Register** / Vol. 59, No. 32 / Wednesday, February 16, 1994 / Presidential Documents (6) hold public meetings as required in section 5–502(d) of this order; and (7) develop

interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1–103. *Development of Agency Strategies.* (a) Except as provided in section 6–605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b)–(e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions. (b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process. (c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy. (d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy. (e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12 month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects. (f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy. (g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1–104. *Reports to the President.* Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1–103(e) of this order.

Sec. 2–2. *Federal Agency Responsibilities for Federal Programs.* Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

Federal Register / Vol. 59, No. 32 /Wednesday, February 16, 1994 / Presidential Documents

Sec. 3–3. *Research, Data Collection, and Analysis.*

3–301. *Human Health and Environmental Research and Analysis.* (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low income populations and workers who may be exposed to substantial

environmental hazards. (b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures. (c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order. **3–302. Human Health and Environmental Data Collection and Analysis.** To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations; (b) In connection with the development and implementation of agency strategies in section 1–103 of this order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law; and (c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001–11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public, unless prohibited by law. (d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

Sec. 4–4. Subsistence Consumption of Fish and Wildlife.

4–401. Consumption Patterns. In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4–402. Guidance. Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish.

Federal Register / Vol. 59, No. 32 /Wednesday, February 16, 1994 / Presidential Documents wildlife. Agencies shall consider such guidance in developing their policies and rules.

Sec. 5–5. Public Participation and Access to Information. (a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group. (b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations. (c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public. (d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding,

receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

Sec. 6–6. General Provisions.

6–601. Responsibility for Agency Implementation. The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6–602. Executive Order No. 12250. This Executive order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6–603. Executive Order No. 12875. This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875.

6–604. Scope. For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6–605. Petitions for Exemptions. The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or activities should not be subject to the requirements of this order.

6–606. Native American Programs. Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

6–607. Costs. Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6–608. General. Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6–609. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance.

Federal Register / Vol. 59, No. 32 /Wednesday, February 16, 1994 / Presidential Documents of the United States, its agencies, its officers, or any other person with this order.

THE WHITE HOUSE,
February 11, 1994.

[FR Citation 59 FR 7629]

Appendix II: Environmental Justice – The US Department of Transportation

FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Classification Code
6640.23A

Date
June 14, 2012

Office of Primary Interest
HEP

1. **What is the purpose of this directive?** This FHWA directive establishes policies and procedures for the Federal Highway Administration (FHWA) to use in complying with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (EO 12898), dated February 11, 1994.
2. **Does this directive cancel an existing FHWA directive?** Yes. This directive cancels [FHWA Order 6640.23](#) FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated December 2, 1998.
3. **What authorities govern this directive?**
 - a. [Executive Order \(EO\) 12898](#), Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (EO 12898), issued February 11, 1994. EO 12898 requires Federal agencies to achieve environmental justice by identifying and addressing disproportionately high and adverse human health or environmental effects, including the interrelated social and economic effects of their programs, policies, and activities on minority populations and low-income populations in the United States. As indicated in the EO, the foregoing requirements are to be carried out to the greatest extent practicable and permitted by law and consistent with the principles set forth in the report on the National Performance Review. Compliance with this FHWA Order is a key element in the environmental justice strategy adopted by FHWA to implement EO 12898, and can be achieved within the framework of existing laws, regulations, and guidance.
 - b. [Department of Transportation \(DOT\) Order 5610.2\(a\)](#), Final DOT Environmental Justice Order, issued May 2, 2012.
 - c. [Title VI of the Civil Rights Act of 1964](#) (Title VI).
 - d. [Title 23, United States Code \(U.S.C.\), Section 109\(h\)](#).
 - e. [National Environmental Policy Act](#) (NEPA).
 - f. [Title 49, Code of Federal Regulations \(CFR\), Part 21.9\(b\)](#).
 - g. [23 CFR 200.9\(b\)\(4\)](#).
 - h. [Uniform Relocation Assistance and Real Property Acquisition Act of 1970](#) (Uniform Act)
4. **What is the scope of this directive?** Consistent with paragraph 6-609 of EO 12898 and DOT Order 5610.2(a), this directive is limited to improving the internal management of the FHWA and is not intended to, nor does it, create any rights, benefits, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the FHWA, its officers, or any person. This directive should not be construed to create any right to judicial review involving the compliance or noncompliance with this directive by FHWA, its officers, or any other person.

5. **What definitions are used in this directive?** The following terms, where used in this directive, shall have the following meanings¹:
- a. **FHWA.** The Federal Highway Administration as a whole and one or more of its individual components.
 - b. **Low-Income.** A person whose median household income is at or below the Department of Health and Human Services poverty guidelines.
 - c. **Minority.** A person who is:
 - 1. (1) Black: a person having origins in any of the black racial groups of Africa;
 - 2. (2) Hispanic or Latino: a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
 - 3. (3) Asian American: a person having origins in any of the original peoples of the Far East, Southeast Asia or the Indian subcontinent;
 - 4. (4) American Indian and Alaskan Native: a person having origins in any of the original people of North America, South America (including Central America), and who maintains cultural identification through tribal affiliation or community recognition; or
 - 5. (5) Native Hawaiian and Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.
 - d. **Low-Income Population.** Any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed FHWA program, policy, or activity.
 - e. **Minority Population.** Any readily identifiable groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed FHWA program, policy, or activity.
 - f. **Adverse Effects.** The totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and soil contamination; destruction or disruption of human-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of FHWA programs, policies, or activities.
 - g. **Disproportionately High and Adverse Effect on Minority and Low-Income Populations.** An adverse effect that:
 - 1. (1) is predominately borne by a minority population and/or a low-income population; or

2. (2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the nonminority population and/or non-low-income population.
 - h. **Programs, Policies, and/or Activities.** All projects, programs, policies, and activities that affect human health or the environment, and that are undertaken, funded (in whole or in part), or approved by FHWA. These include, but are not limited to, permits, licenses, and financial assistance provided by FHWA. Interrelated projects within a system may be considered to be a single project, program, policy, or activity for purposes of this directive.
 - i. **Regulations and Guidance.** Regulations, programs, policies, guidance, and procedures promulgated, issued, or approved by FHWA.
6. **What is FHWA's policy concerning Environmental Justice?**
- a. It is FHWA's longstanding policy to actively ensure nondiscrimination in federally funded activities. Furthermore, it is FHWA's continuing policy to identify and prevent discriminatory effects by actively administering its programs, policies, and activities to ensure that social impacts to communities and people are recognized early and continually throughout the transportation decisionmaking process--from early planning through implementation. Should the potential for discrimination be discovered, action to eliminate the potential shall be taken.
 - b. EO 12898, DOT Order 5610.2(a), and this directive reaffirm the principles of Title VI and related statutes, NEPA, 23 U.S.C. 109(h), and other Federal environmental laws, emphasizing the incorporation of those provisions with the environmental and transportation decisionmaking processes.
 - c. Under Title VI, each Federal agency is required to ensure that no person on the grounds of race, color, or national origin, is excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance. This statute applies to every program area in FHWA.
 - d. Under EO 12898, each Federal agency must identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. FHWA will implement this EO and the principles of DOT Order 5610.2(a) and EO 12898 by incorporating environmental justice principles in all FHWA programs, policies, and activities within the framework of existing laws, regulations, and guidance.
 - e. In complying with this directive, FHWA will rely upon existing authorities to collect necessary data and conduct research associated with environmental justice concerns, including, but not limited to, 49 CFR 21.9(b) and 23 CFR 200.9(b)(4).
 - f. The FHWA will administer its governing statutes so as to identify and avoid discrimination and disproportionately high and adverse effects on minority populations and low-income populations by:
 1. (1) identifying and evaluating environmental, public health, and interrelated social and economic effects of FHWA programs, policies, and activities;

2. (2) proposing measures to avoid, minimize, and/or mitigate disproportionately high and adverse environmental or public health effects and interrelated social and economic effects, and providing offsetting benefits and opportunities to enhance communities, neighborhoods, and individuals affected by FHWA programs, policies, and activities, where permitted by law and consistent with EO 12898;
 3. (3) considering alternatives to proposed programs, policies, and activities where such alternatives would result in avoiding and/or minimizing disproportionately high and adverse human health or environmental impacts, where permitted by law and consistent with EO 12898; and
 4. (4) providing public involvement opportunities and considering the results thereof, including providing meaningful access to public information concerning the human health or environmental impacts and soliciting input from affected minority populations and low-income populations in considering alternatives during the planning and development of alternatives and decisions.
7. **How should Environmental Justice principles be integrated into existing operations?**
 - a. The principles outlined in this directive are required to be integrated into existing operations.
 - b. Future rulemaking activities undertaken, and the development of any future guidance or procedures for FHWA programs, policies, or activities that affect human health or the environment, shall explicitly address FHWA compliance with EO 12898, with DOT Order 5610.2(a), and with this directive.
 - c. The formulation of future FHWA policy statements and proposals for legislation that may affect human health or the environment will include consideration of the provisions of EO 12898 and this directive.
8. **What are the FHWA's responsibilities?** FHWA managers and staff are responsible for the following:
 - a. Under Title VI, FHWA managers and staff must administer their programs in a manner to ensure that no person is excluded from participating in, denied the benefits of, or subjected to discrimination under any program or activity of FHWA because of race, color, or national origin.
 - b. Under EO 12898, FHWA managers and staff must administer their programs to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of FHWA programs, policies, and activities on minority populations and low-income populations.
 - c. The FHWA currently administers policies, programs, and activities that are subject to the requirements of NEPA, Title VI, the Uniform Act, Title 23 of the United States Code, and other statutes that involve human health or environmental matters, or interrelated social and economic impacts. These requirements will be administered to identify the risk of discrimination early in the development of FHWA's programs, policies, and activities so that positive corrective action can be taken. In implementing these requirements, the following information should be obtained where relevant, appropriate, and practical:

1. (1) population served and/or affected by race, color, or national origin, and income level;
 2. (2) proposed steps to guard against disproportionately high and adverse effects on persons on the basis of race, color, or national origin; and
 3. (3) present and proposed membership by race, color, or national origin, in any planning or advisory body that is part of the program.
- d. Following the guidance set forth in this directive, FHWA managers and staff shall ensure that FHWA programs, policies, and activities for which they are responsible do not have a disproportionately high and adverse effect on minority populations or low-income populations.
 - e. When determining whether a particular program, policy, or activity will have disproportionately high and adverse effects on minority and low-income populations, FHWA managers and staff should take into account mitigation and enhancement measures and potential offsetting benefits to the affected minority and/or low-income populations. Other factors that may be taken into account include design, comparative impacts, and the relevant number of similar existing system elements in nonminority and non-low-income areas.
 - f. The FHWA managers and staff will ensure that the programs, policies, and activities that will have disproportionately high and adverse effects on minority populations and/or low-income populations will only be carried out if further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effects are not practicable. In determining whether a mitigation measure or an alternative is "practicable," the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account.
 - g. The FHWA managers and staff will also ensure that any of their respective programs, policies, or activities that have the potential for disproportionately high and adverse effects on populations protected by Title VI ("protected populations") will only be carried out if:
 1. (1) a substantial need for the program, policy or activity exists, based on the overall public interest; and
 2. (2) alternatives that would have less adverse effects on protected populations have either:
 - a. (a) adverse social, economic, environmental, or human health impacts that are severe; or
 - b. (b) would involve increased costs of an extraordinary magnitude.
 - h. Any relevant finding identified during the implementation of this directive must be included in the planning or NEPA documentation that is prepared for the appropriate program, policy, or activity.
 - i. Environmental and civil rights statutes, along with Executive Orders require that the environmental effects on minority populations and low-income populations be addressed. Under Title VI, each Federal agency is required to ensure that no person on grounds of race, color, or national origin is excluded from participation in, denied the benefits of, or in any other way subjected to discrimination under any program or activity receiving Federal assistance. Therefore, any member of a protected class under Title VI may file a complaint with the FHWA Office of

Civil Rights, alleging that he or she was subjected to disproportionately high and adverse health or environmental effects.

9. **Where can I obtain additional guidance?** For more information or additional guidance related to Environmental Justice, please see the FHWA Environmental Justice [web site](#).

A handwritten signature in blue ink, appearing to read "Victor M. Mendez".

Victor M. Mendez
Administrator

¹ These definitions are intended to be consistent with the draft definitions for EO 12898 that have been issued by the Council on Environmental Quality (CEQ) and the Environmental Protection Agency (EPA). To the extent that these definitions vary from the CEQ and EPA draft definitions, they reflect further refinements deemed necessary to tailor the definitions to fit within the context of the FHWA program.

Appendix III: Census 2010 Definition of Subject Characteristics

INTRODUCTION

The 2010 Census data products provide, except where specifically noted, counts of the resident population of the United States. The U.S. resident population includes everyone whose usual place of residence was in the 50 states and the District of Columbia at the time of the 2010 Census. In the design of summary file tables, the Census Bureau strives for consistency in terminology and cell label structure to facilitate processing, review, and usability. Data users see the same patterns repeated in various cross-tabulated tables. Unfortunately, at times, the use of a pattern creates illogical results, such as the display of data for the population 65 years and over in juvenile correctional facilities.

POPULATION CHARACTERISTICS

Age

The data on age were derived from answers to a two-part question (i.e., age and date of birth). The age classification for a person in census tabulations is the age of the person in completed years as of April 1, 2010, the census reference date. Both age and date of birth responses are used in combination to B-2 Definitions of Subject Characteristics determine the most accurate age for the person as of the census reference date. Inconsistently reported and missing values are assigned or allocated based on the values of other variables for that person, from other people in the household or from people in other households (i.e., hot-deck imputation). Age data are tabulated in age groupings and single years of age. Data on age also are used to classify other characteristics in census tabulations.

Median Age—This measure divides the age distribution into two equal parts: one-half of the cases falling below the median value and one-half above the value. Median age is computed on the basis of a single year-of-age distribution using a linear interpolation method.

Limitation of the data—There is some tendency for respondents to provide their age as of the date they completed the census questionnaire or interview, not their age as of the census reference date. The two-part question and editing procedures have attempted to minimize the effect of this reporting problem on tabulations. Additionally, the current census age question displays the census reference date prominently, and interviewer training emphasizes the importance of collecting age as of the reference date. Respondents sometimes round a person's age up if they were close to having a birthday. For most single years of age, the misstatements are largely offsetting. The problem is most pronounced at age 0. Also, there may have been more rounding up to age 1 to avoid reporting age as 0 years. (Age in completed months was not collected for infants under age 1.) Editing procedures correct this problem. There is some respondent resistance to reporting the ages of babies in completed years (i.e., 0 years old when the baby is under 1 year old). Instead, babies' ages are sometimes reported in months. The two-part question along with enhanced editing and data capture procedures correct much of this problem before the age data are finalized in tabulations. Additionally, the current census age question includes an instruction for babies' ages to be answered as "0" years old when they are under 1 year old. Age heaping is a common age misreporting error. Age heaping is the tendency for people to over report ages (or years of birth) that end in certain digits (commonly digits "0" or "5") and underreport ages or years of birth ending in other digits. The two-part question helps minimize the effect of age heaping on the final tabulations.

Age data for centenarians have a history of data quality challenges. The counts in the 1970 and 1980 Censuses for people 100 years and over were substantially overstated. Editing and data collection methods have been enhanced in order to meet the data quality challenges for this population. It also has been documented that the population aged 69 in the 1970 Census and the population aged 79 in the 1980 Census were overstated. The population aged 89 in 1990 and the population aged 99 in 2000 did not have an overstated count. (For more information on the design of the age question, see the "Comparability" section below.)

Comparability—Age data have been collected in every census. However, there have been some differences in the way they have been collected and processed over time. In the 2010 Census (as in Census 2000), each individual provided both an age and an exact date of birth. The 1990 Census collected age and year of birth. Prior censuses had collected month and quarter of birth in addition to age and year of birth. The 1990 Census change was made so that coded information could be obtained for both age and year of birth.

In each census since 1940, the age of a person was assigned when it was not reported. In censuses before

1940, with the exception of 1880, people of unknown age were shown as a separate category. Since 1960, assignment of unknown age has been performed by a general procedure described as “imputation.” The specific procedures for imputing age have been different in each census. (For more information on imputation, see [“2010 Census: Operational Overview and Accuracy of the Data.”](#))
Definitions of Subject Characteristics B-3

Alaska Native Tribe

See [“Race.”](#)

American Indian Tribe

See [“Race.”](#)

Foster Children

See [“Other Nonrelatives in Household Type and Relationship.”](#)

Hispanic or Latino Origin

The data on the Hispanic or Latino population were derived from answers to a question that was asked of all people. The terms “Hispanic,” “Latino,” and “Spanish” are used interchangeably. Some respondents identify with all three terms, while others may identify with only one of these three specific terms. People who identify with the terms “Hispanic,” “Latino,” or “Spanish” are those who classify themselves in one of the specific Hispanic, Latino, or Spanish categories listed on the questionnaire (“Mexican,” “Puerto Rican,” or “Cuban”) as well as those who indicate that they are “another Hispanic, Latino, or Spanish origin.” People who do not identify with one of the specific origins listed on the questionnaire but indicate that they are “another Hispanic, Latino, or Spanish origin” are those whose origins are from Spain, the Spanish-speaking countries of Central or South America, or the Dominican Republic. Up to two write-in responses to the “another Hispanic, Latino, or Spanish origin” category are coded.

Origin can be viewed as the heritage, nationality group, lineage, or country of birth of the person or the person’s parents or ancestors before their arrival in the United States. People who identify their origin as Hispanic, Latino, or Spanish may be any race.

Some tabulations are shown by the origin of the householder. In all cases where the origin of households, families, or occupied housing units is classified as Hispanic, Latino, or Spanish, the origin of the householder is used. (See the discussion of householder under [“Household Type and Relationship.”](#)) If an individual did not provide a Hispanic origin response, his or her origin was allocated using specific rules of precedence of household relationship. For example, if origin was missing for a natural-born child in the household, then either the origin of the householder, another natural-born child, or spouse of the householder was allocated.

If Hispanic origin was not reported for anyone in the household and origin could not be obtained from a response to the race question, then their origin was assigned based on their prior census record (either from Census 2000 or the American Community Survey), if available. If not, then the Hispanic origin of a householder in a previously processed household with the same race was allocated. (For more information on allocation, see [“2010 Census: Operational Overview and Accuracy of the Data.”](#)) As in Census 2000, surnames (Spanish and non-Spanish) were used to assist in allocating an origin or race.

Comparability—There are four changes to the Hispanic origin question for the 2010 Census. First, the wording of the question differs from that in 2000. In 2000, the question asked if the person was “Spanish/Hispanic/Latino.” In 2010, the question asks if the person is “of Hispanic, Latino, or Spanish origin.” Second, in 2000, the question provided an instruction, “Mark **yes** the ‘**No**’ box if **not** Spanish/Hispanic/Latino.” The 2010 Census question provided no specific instruction for non-Hispanics. Third, in 2010, the “Yes, another Hispanic, Latino, or Spanish origin” category provided examples of six Hispanic origin groups (Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on) and instructed respondents to “print origin.” In 2000, no Hispanic origin examples were given. Finally, the fourth change was the addition of a new instruction in the 2010 Census that was not used in Census 2000. The instruction is stated as follows: “NOTE: Please answer BOTH Question 8 about Hispanic origin and Question 9 about race. For this census, Hispanic origins are not races.”

There were two changes to the Hispanic origin question for Census 2000. First, the sequence of the race and Hispanic origin questions for Census 2000 differs from that in 1990; in 1990, the race question preceded the Hispanic origin question. Testing prior to Census 2000 indicated that response to the

Hispanic origin question could be improved by placing it before the race question without affecting the response to the race question. Second, there was an instruction preceding the Hispanic origin question indicating that respondents should answer both the Hispanic origin and the race questions. This instruction was added to give emphasis to the distinct concepts of the Hispanic origin and race questions, and emphasized the need for both pieces of information.

Furthermore, there was a change in the processing of the Hispanic origin and race responses. In the 1990 census, respondents provided Hispanic origin responses in the race question and race responses in the Hispanic origin question. In 1990, the Hispanic origin question and the race question had separate edits; therefore, although information may have been present on the questionnaire, it was not fully utilized due to the discrete nature of the edits. However, for Census 2000, there was a joint race and Hispanic origin edit that utilized Hispanic origin and race information regardless of the location.

Household Type and Relationship

Household

A household includes all the people who occupy a housing unit. (People not living in households are classified as living in group quarters.) A housing unit is a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied (or if vacant, is intended for occupancy) as separate living quarters. Separate living quarters are those in which the occupants live separately from any other people in the building and which have direct access from the outside of the building or through a common hall. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated people who share living arrangements. In the 2010 Census data products, the count of households or householders equals the count of occupied housing units.

Average Household Size—Average household size is a measure obtained by dividing the number of people in households by the number of households. In cases where people in households are crossclassified by race or Hispanic origin, people in the household are classified by the race or Hispanic origin of the householder rather than the race or Hispanic origin of each individual. Average household size is rounded to the nearest hundredth.

Relationship to Householder

Householder—The data on relationship to householder were derived from answers to Question 2, which was asked of all people in housing units. One person in each household is designated as the householder. In most cases, this is the person, or one of the people, in whose name the home is owned, being bought, or rented and who is listed on line one of the questionnaire. If there is no such person in the household, any adult household member 15 years old and over could be designated as the householder. Households are classified by type according to the sex of the householder and the presence of relatives. Two types of householders are distinguished: a family householder and a nonfamily householder. A family householder is a householder living with one or more individuals related to him or her by birth, marriage, or adoption. The householder and all people in the household related to him or her are family members. A nonfamily householder is a householder living alone or with nonrelatives only.

Spouse—The “spouse” category includes a person identified as the husband or wife of the householder and who is of the opposite sex. For most of the tables, unless otherwise specified, it does not include same-sex spouses even if a marriage was performed in a state issuing marriage certificates for same-sex couples.

Child—The “child” category includes a son or daughter by birth, a stepchild, or adopted child of the householder, regardless of the child’s age or marital status. The category excludes sons-in-law, daughters-in-law, and foster children.

Biological Son or Daughter—The son or daughter of the householder by birth.

Adopted Son or Daughter—The son or daughter of the householder by legal adoption. If a stepson, stepdaughter, or foster child has been legally adopted by the householder, the child is then classified as an adopted child.

Stepson or Stepdaughter—The son or daughter of the householder through marriage but not by birth, excluding sons-in-law and daughters-in-law. If a stepson or stepdaughter of the householder has been legally adopted by the householder, the child is then classified as an adopted child.

Own Children—A child under 18 years who is a son or daughter by birth, a stepchild, or an adopted child

of the householder is included in the “own children” category.

Related Children—Any child under 18 years old who is related to the householder by birth, marriage, or adoption is included in the “related children” category. Children, by definition, exclude persons under 18 years who maintain households or are spouses or unmarried partners of householders.

Other Relatives—In tabulations, the category “other relatives” includes any household member related to the householder by birth, marriage, or adoption but not included specifically in another relationship category. In certain detailed tabulations, the following categories may be shown:

Grandchild—The grandson or granddaughter of the householder.

Brother/Sister—The brother or sister of the householder, including stepbrothers, stepsisters, and brothers and sisters by adoption. Brothers-in-law and sisters-in-law are included in the “Other Relative” category on the questionnaire.

Parent—The father or mother of the householder, including a stepparent or adoptive parent. Fathers-in-law and mothers-in-law are included in the “Parent-in-law” category on the questionnaire.

Parent-in-Law—The mother-in-law or father-in-law of the householder.

Son-in-law or Daughter-in-Law—The spouse of the child of the householder.

Other Relatives—Anyone not listed in a reported category above who is related to the householder by birth, marriage, or adoption (brother-in-law, grandparent, nephew, aunt, cousin, and so forth).

Nonrelatives—This category includes any household member not related to the householder by birth, marriage, or adoption. The following categories may be presented in more detailed tabulations:

Roomer or Boarder—A roomer or boarder is a person who lives in a room in the household of the householder. Some sort of cash or noncash payment (e.g., chores) is usually made for their living accommodations.

Housemate or Roommate—A housemate or roommate is a person aged 15 years and over who is not related to the householder and who shares living quarters primarily in order to share expenses.

Unmarried Partner—An unmarried partner is a person aged 15 years and over who is not related to the householder, who shares living quarters, and who has a close personal relationship with the householder. Responses of “same-sex spouse” are edited into this category.

Other Nonrelatives—Anyone who is not related by birth, marriage, or adoption to the householder and who is not described by the categories given above. Unrelated foster children or unrelated foster adults are included in this category, “Other Nonrelatives.” A foster child who has been adopted by the householder is classified as an adopted child.

When relationship is not reported for an individual, it is allocated according to the responses for age and sex for that person while maintaining consistency with responses for other individuals in the household. (For more information on allocation, see [“2010 Census: Operational Overview and Accuracy of the Data.”](#))

Families

Family Type—A family consists of a householder and one or more other people living in the same household who are related to the householder by birth, marriage, or adoption. All people in a household who are related to the householder are regarded as members of his or her family. A family household may contain people not related to the householder, but those people are not included as part of the householder’s family in tabulations. Thus, the number of family households is equal to the number of families, but family households may include more members than do families. A household can contain only one family for purposes of tabulations. Not all households contain families since a household may be comprised of a group of unrelated people or of one person living alone—these are called “nonfamily households.” Same-sex unmarried partner households are included in the “family households” category only if there is at least one additional person related to the householder by birth or adoption. Families are classified by type as either a “husband-wife family” or “other family” according to the sex of the householder and the presence of relatives. The data on family type are based on answers to questions

on sex and relationship.

Husband-Wife Family—A family in which the householder and his or her spouse of the opposite sex are enumerated as members of the same household.

Other Family:

- *Male householder, no wife present*—A family with a male householder and no wife of householder present.
- *Female householder, no husband present*—A family with a female householder and no husband of householder present.

Average Family Size—Average family size is a measure obtained by dividing the number of people in families by the total number of families (or family householders). In cases where the measures “people in family” or “people per family” are cross-tabulated by race or Hispanic origin, the race or Hispanic origin refers to the householder rather than the race or Hispanic origin of each individual. Nonrelatives of the householder living in family households are not counted as part of the family. They are included in the count of average household size. Average family size is rounded to the nearest hundredth.

Multigenerational Household

A multigenerational household is one that contains three or more parent-child generations; for example, the householder, child of householder (either biological, stepchild, or adopted child), and grandchildren of householder. A householder with a parent or parent-in-law of the householder and a child of the householder may also be a multigenerational household.

Unmarried-Partner Household

An unmarried-partner household is a household other than a “husband-wife household” that includes a householder and an unmarried partner. An “unmarried partner” can be of the same sex or of the opposite sex as the householder. An “unmarried partner” in an “unmarried-partner household” is an adult who is unrelated to the householder but shares living quarters and has a close personal relationship with the householder. An unmarried-partner household also may be a family household or a nonfamily household, depending on the presence or absence of another person in the household who is related to the householder. There may be only one unmarried partner per household, and an unmarried partner may not be included in a husband-wife household, as the householder cannot have both a spouse and an unmarried partner. Same-sex married-couple households are edited into this category.

Definitions of Subject Characteristics B-7

U.S. Census Bureau, 2010 Census Summary File 1

Comparability—The 2000 relationship category “Natural-born son/daughter” has been replaced by “Biological son or daughter” for 2010. The category “Foster child” was dropped due to space limitations on the 2010 questionnaire. Foster children in 2010 are included in the category “Other nonrelatives.” They cannot be tabulated separately. The term “married-couple” family in tabulations has been replaced by “husband-wife” family. In all standard 2010 tabulations, the term “spouse” refers to only a person who is married to and living with the householder and is of the opposite sex. Data for unmarried partners are comparable to data presented in 2000. Data on same-sex couple households will be presented for the first time in a special product.

Institutionalized Population

See “[Group Quarters](#).”

Noninstitutionalized Population

See “[Group Quarters](#).”

Race

The data on race were derived from answers to the question on race that was asked of all people. The U.S. Census Bureau collects race data in accordance with guidelines provided by the U.S. Office of Management and Budget (OMB), and these data are based on self-identification. The racial categories included in the census questionnaire generally reflect a social definition of race recognized in this country and not an attempt to define race biologically, anthropologically, or genetically. In addition, it is recognized that the categories of the race item include racial and national origin or sociocultural groups. People may choose to report more than one race to indicate their racial mixture, such as “American Indian” and “White.” People who identify their origin as Hispanic, Latino, or Spanish may be any race.

The racial classifications used by the Census Bureau adhere to the October 30, 1997, *Federal Register*

notice entitled, “Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity” issued by OMB. These standards govern the categories used to collect and present federal data on race and ethnicity. OMB requires five minimum categories (White, Black or African American, American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander) for race. The race categories are described below with a sixth category, “Some Other Race,” added with OMB approval. In addition to the five race groups, OMB also states that respondents should be offered the option of selecting one or more races.

If an individual did not provide a race response, the race or races of the householder or other household members were imputed using specific rules of precedence of household relationship. For example, if race was missing for a natural-born child in the household, then either the race or races of the householder, another natural-born child, or spouse of the householder were allocated.

If race was not reported for anyone in the household, then their race was imputed based on their prior census record (either from Census 2000 or the American Community Survey), if available. If not, then the race or races of a householder in a previously processed household were allocated.

Definitions from OMB guide the Census Bureau in classifying written responses to the race question:

White—A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. It includes people who indicate their race as “White” or report entries such as Irish, German, Italian, Lebanese, Arab, Moroccan, or Caucasian.

Black or African American—A person having origins in any of the Black racial groups of Africa. It includes people who indicate their race as “Black, African Am., or Negro” or report entries such as African American, Kenyan, Nigerian, or Haitian.

B-8 Definitions of Subject Characteristics

U.S. Census Bureau, 2010 Census Summary File 1

American Indian or Alaska Native—A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment. This category includes people who indicate their race as “American Indian or Alaska Native” or report entries such as Navajo, Blackfeet, Inupiat, Yup’ik, or Central American Indian groups or South American Indian groups.

Respondents who identified themselves as “American Indian or Alaska Native” were asked to report their enrolled or principal tribe. Therefore, tribal data in tabulations reflect the written entries reported on the questionnaires. Some of the entries (for example, Metlakatla Indian Community and Umatilla) represent reservations or a confederation of tribes on a reservation. The information on tribe is based on self-identification and, therefore, does not reflect any designation of federally or state-recognized tribe. The information for the 2010 Census was derived from the American Indian and Alaska Native Tribal Classification List for Census 2000 and updated from 2002 to 2009 based on the annual *Federal Register* notice entitled “Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs,” Department of the Interior, Bureau of Indian Affairs, issued by OMB, and through consultation with American Indian and Alaska Native communities and leaders.

The American Indian categories shown in Summary Files 1 and 2 represent tribal groupings, which refer to the combining of individual American Indian tribes, such as Fort Sill Apache, Mescalero Apache, and San Carlos Apache, into the general Apache tribal grouping.

The Alaska Native categories shown in Summary Files 1 and 2 represent tribal groupings, which refer to the combining of individual Alaska Native tribes, such as King Salmon Tribe, Native Village of Kanatak, and Sun’aq Tribe of Kodiak, into the general Aleut tribal grouping.

Asian—A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. It includes people who indicate their race as “Asian Indian,” “Chinese,” “Filipino,” “Korean,” “Japanese,” “Vietnamese,” and “Other Asian” or provide other detailed Asian responses.

Asian Indian—Includes people who indicate their race as “Asian Indian” or report entries such as India or East Indian.

Bangladeshi—Includes people who provide a response such as Bangladeshi or Bangladesh.

Bhutanese—Includes people who provide a response such as Bhutanese or Bhutan.

Burmese—Includes people who provide a response such as Burmese or Burma.

Cambodian—Includes people who provide a response such as Cambodian or Cambodia.

Chinese—Includes people who indicate their race as “Chinese” or report entries such as China or Chinese American. In some census tabulations, written entries of Taiwanese are included with Chinese, while in others they are shown separately.

Filipino—Includes people who indicate their race as “Filipino” or report entries such as Philippines or Filipino American.

Hmong—Includes people who provide a response such as Hmong or Mong.

Indonesian—Includes people who provide a response such as Indonesian or Indonesia.

Japanese—Includes people who indicate their race as “Japanese” or report entries such as Japan or Japanese American.

Korean—Includes people who indicate their race as “Korean” or report entries such as Korea or Korean American.

Definitions of Subject Characteristics B-9

U.S. Census Bureau, 2010 Census Summary File 1

Laotian—Includes people who provide a response such as Laotian or Laos.

Malaysian—Includes people who provide a response such as Malaysian or Malaysia.

Nepalese—Includes people who provide a response such as Nepalese or Nepal.

Pakistani—Includes people who provide a response such as Pakistani or Pakistan.

Sri Lankan—Includes people who provide a response such as Sri Lankan or Sri Lanka.

Taiwanese—Includes people who provide a response such as Taiwanese or Taiwan.

Thai—Includes people who provide a response such as Thai or Thailand.

Vietnamese—Includes people who indicate their race as “Vietnamese” or report entries such as Vietnam or Vietnamese American.

Other Asian, specified—Includes people who provide a response of another Asian group, such as Iwo Jiman, Maldivian, Mongolian, Okinawan, or Singaporean.

Other Asian, not specified—Includes respondents who checked the Other Asian response category on the census questionnaire and did not write in a specific group or wrote in a generic term such as “Asian” or “Asiatic.”

Native Hawaiian or Other Pacific Islander—A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. It includes people who indicate their race as “Native Hawaiian,” “Guamanian or Chamorro,” “Samoa,” and “Other Pacific Islander” or provide other detailed Pacific Islander responses.

Native Hawaiian—Includes people who indicate their race as “Native Hawaiian” or report entries such as Part Hawaiian or Hawaiian.

Samoa—Includes people who indicate their race as “Samoa” or report entries such as American Samoa or Western Samoa.

Tongan—Includes people who provide a response such as Tongan or Tonga.

Other Polynesian—Includes people who provide a response of another Polynesian group, such as Tahitian, Tokelauan, or wrote in a generic term such as “Polynesian.”

Guamanian or Chamorro—Includes people who indicate their race as “Guamanian or Chamorro” or report entries such as Chamorro or Guam.

Marshallese—Includes people who provide a response such as Marshallese or Marshall Islands.

Other Micronesian—Includes people who provide a response of another Micronesian group, such as Carolinian, Chuukese, I-Kiribati, Kosraean, Mariana Islander, Palauan, Pohnpeian, Saipanese, Yapese, or wrote in a generic term such as “Micronesian.”

Fijian—Includes people who provide a response such as Fijian or Fiji.

Other Melanesian—Includes people who provide a response of another Melanesian group, such as Guinean, Hebrides Islander, Solomon Islander, or wrote in a generic term such as “Melanesian.”

Other Pacific Islander, not specified—Includes respondents who checked the Other Pacific Islander response category on the census questionnaire and did not write in a specific group or wrote in a generic term such as “Pacific Islander.”

Some Other Race—Includes all other responses not included in the “White,” “Black or African American,” “American Indian or Alaska Native,” “Asian,” and “Native Hawaiian or Other Pacific Islander” race categories described above. Respondents reporting entries such as multiracial, mixed, interracial, or a Hispanic, B-10 Definitions of Subject Characteristics

U.S. Census Bureau, 2010 Census Summary File 1

Latino, or Spanish group (for example, Mexican, Puerto Rican, Cuban, or Spanish) in response to the race question are included in this category.

Two or More Races—People may choose to provide two or more races either by checking two or more race response check boxes, by providing multiple responses, or by some combination of check boxes and other responses. The race response categories shown on the questionnaire are collapsed into the five minimum race groups identified by OMB and the Census Bureau’s “Some Other Race” category. For data product purposes, “Two or More Races” refers to combinations of two or more of the following race categories:

1. White
2. Black or African American
3. American Indian or Alaska Native
4. Asian
5. Native Hawaiian or Other Pacific Islander
6. Some Other Race

There are 57 possible combinations (see Figure B-1) involving the race categories shown above. Thus, according to this approach, a response of “White” and “Asian” was tallied as Two or More Races, while a response of “Japanese” and “Chinese” was not because “Japanese” and “Chinese” are both Asian responses.

Figure B-1.

Two or More Races (57 Possible Specified Combinations)

1. White; Black or African American
2. White; American Indian and Alaska Native
3. White; Asian
4. White; Native Hawaiian and Other Pacific Islander
5. White; Some Other Race
6. Black or African American; American Indian and Alaska Native
7. Black or African American; Asian
8. Black or African American; Native Hawaiian and Other Pacific Islander
9. Black or African American; Some Other Race
10. American Indian and Alaska Native; Asian
11. American Indian and Alaska Native; Native Hawaiian and Other Pacific Islander
12. American Indian and Alaska Native; Some Other Race
13. Asian; Native Hawaiian and Other Pacific Islander
14. Asian; Some Other Race
15. Native Hawaiian and Other Pacific Islander; Some Other Race
16. White; Black or African American; American Indian and Alaska Native
17. White; Black or African American; Asian
18. White; Black or African American; Native Hawaiian and Other Pacific Islander
19. White; Black or African American; Some Other Race
20. White; American Indian and Alaska Native; Asian
21. White; American Indian and Alaska Native; Native Hawaiian and Other Pacific Islander

Definitions of Subject Characteristics B-11

U.S. Census Bureau, 2010 Census Summary File 1

22. White; American Indian and Alaska Native; Some Other Race
23. White; Asian; Native Hawaiian and Other Pacific Islander
24. White; Asian; Some Other Race
25. White; Native Hawaiian and Other Pacific Islander; Some Other Race
26. Black or African American; American Indian and Alaska Native; Asian
27. Black or African American; American Indian and Alaska Native; Native Hawaiian and Other Pacific Islander
28. Black or African American; American Indian and Alaska Native; Some Other Race
29. Black or African American; Asian; Native Hawaiian and Other Pacific Islander
30. Black or African American; Asian; Some Other Race
31. Black or African American; Native Hawaiian and Other Pacific Islander; Some Other Race
32. American Indian and Alaska Native; Asian; Native Hawaiian and Other Pacific Islander
33. American Indian and Alaska Native; Asian; Some Other Race
34. American Indian and Alaska Native; Native Hawaiian and Other Pacific Islander; Some Other Race
35. Asian; Native Hawaiian and Other Pacific Islander; Some Other Race
36. White; Black or African American; American Indian and Alaska Native; Asian
37. White; Black or African American; American Indian and Alaska Native; Native Hawaiian and Other Pacific Islander
38. White; Black or African American; American Indian and Alaska Native; Some Other Race
39. White; Black or African American; Asian; Native Hawaiian and Other Pacific Islander
40. White; Black or African American; Asian; Some Other Race
41. White; Black or African American; Native Hawaiian and Other Pacific Islander; Some Other Race
42. White; American Indian and Alaska Native; Asian; Native Hawaiian and Other Pacific Islander
43. White; American Indian and Alaska Native; Asian; Some Other Race
44. White; American Indian and Alaska Native; Native Hawaiian and Other Pacific Islander; Some Other Race

45. White; Asian; Native Hawaiian and Other Pacific Islander; Some Other Race
46. Black or African American; American Indian and Alaska Native; Asian; Native Hawaiian and Other Pacific Islander
47. Black or African American; American Indian and Alaska Native; Asian; Some Other Race
48. Black or African American; American Indian and Alaska Native; Native Hawaiian and Other Pacific Islander; Some Other Race
49. Black or African American; Asian; Native Hawaiian and Other Pacific Islander; Some Other Race
50. American Indian and Alaska Native; Asian; Native Hawaiian and Other Pacific Islander; Some Other Race
51. White; Black or African American; American Indian and Alaska Native; Asian; Native Hawaiian and Other Pacific Islander
52. White; Black or African American; American Indian and Alaska Native; Asian; Some Other Race
53. White; Black or African American; American Indian and Alaska Native; Native Hawaiian and Other Pacific Islander; Some Other Race
54. White; Black or African American; Asian; Native Hawaiian and Other Pacific Islander; Some Other Race
55. White; American Indian and Alaska Native; Asian; Native Hawaiian and Other Pacific Islander; Some Other Race
56. Black or African American; American Indian and Alaska Native; Asian; Native Hawaiian and Other Pacific Islander; Some Other Race
57. White; Black or African American; American Indian and Alaska Native; Asian; Native Hawaiian and Other Pacific Islander; Some Other Race

Race Concepts

Given the many possible ways of displaying data on race, data products will provide varying levels of detail. There are several additional concepts used to display race information for the six major race categories (White; Black or African American; American Indian or Alaska Native; Asian; Native Hawaiian or Other Pacific Islander; and Some Other Race) and the various details within these groups.

The concept “*race alone*” includes people who reported a single entry (e.g., Korean) and no other race, as well as people who reported two or more entries within the same major race group (e.g., Asian). For example, respondents who reported Korean and Vietnamese are part of the larger “Asian alone” race group.

The concept “*race alone or in combination*” includes people who reported a single race alone (e.g., Asian) and people who reported that race in combination with one or more of the other major race groups (e.g., White, Black or African American, American Indian and Alaska Native, Native Hawaiian and Other Pacific Islander, and Some Other Race). The concept “*race alone or in combination*” concept, therefore, represents the maximum number of people who reported as that race group, either alone or in combination with one or more additional race(s). The sum of the six individual race “alone-or-in-combination” categories may add to more than the total population because people who reported more than one race were tallied in each race category.

The concept “*race alone or in any combination*” applies only to detailed race groups, such as American Indian and Alaska Native tribes, detailed Asian groups, and detailed Pacific Islander groups. For example, Korean alone or in any combination includes people who reported a single response (e.g., Korean), people who reported Korean and another Asian group (e.g., Korean and Vietnamese), and people who reported Korean in combination with one or more other non-Asian race groups (e.g., White, Black or African American, American Indian and Alaska Native, Native Hawaiian and Other Pacific Islander, or Some Other Race).

Coding of Write-In Entries—The 2010 Census included an automated review, computer edit, and coding operation on a 100 percent basis for the write-in responses to the race question, similar to that used in Census 2000. There were two types of coding operations: 1) automated coding where a write-in response was automatically coded if it matched a write-in response already contained in a database known as the “master file” and 2) expert coding, which took place when a write-in response did not match an entry already on the master file and was sent to expert coders familiar with the subject matter. During the coding process, subject-matter specialists reviewed and coded written entries from the response areas on the race question: American Indian or Alaska Native, Other Asian, Other Pacific Islander, and Some Other Race. Up to 30 text characters were collected from each race write-in area, and up to two responses were coded and tabulated from each separate race write-in area.

Comparability—There are three changes to the race question for the 2010 Census. First, the note to respondents was changed to read, “Please answer BOTH Question 8 about Hispanic origin and Question 9 about race. For this census, Hispanic origins are not races.” Second, the wording of the race question was changed from “What is this person’s race? Mark *ý* one or more races to indicate what this person considers

himself/herself to be” to “What is Person 1’s race? Mark ý one or more boxes.” Third, examples were added to the “Other Asian” response categories (Hmong, Laotian, Thai, Pakistani, Cambodian, and so on) and the “Other Pacific Islander” response categories (Fijian, Tongan, and so on).

The treatment of ethnic or national origin write-in responses to the race question also was different. For Census 2000, data on single ancestry by race from the 1990 census were used to help make decisions about how to code ethnic or national origin responses into one or more race categories. Essentially, if 90 percent or more of people who reported a single, specific ancestry reported in a specific race category in 1990 (e.g., more than 90 percent of people indicating Haitian ancestry reported as Black in the question on race), then that race was used as the Census 2000 response. This 90 percent rule was not applied to write-in responses of American Indian and Alaska Native tribes, Asian groups, or Pacific Islander groups because the question on race was designed explicitly to obtain these types of responses. For example, a write-in response of “Haitian and Moroccan” was coded as “Black” and “Some Other Race.” “Moroccan” was coded as “Some Other Race” because less than 90 percent of people indicating Moroccan ancestry reported in one specific race category in the question on race.

For the 2010 Census, ethnic or national origin write-in responses to the race question were coded into one or more of the five OMB race categories, according to the 1997 OMB definitions of race. For example, a 2010 Census write-in response of “Haitian and Moroccan” was coded as “Black” and “White” following OMB’s definitions. If it was not possible to determine which OMB race category the ethnic group or national origin should be coded into, it was included in the “Some Other Race” category.

For more information about comparability to data collected in previous censuses, see Census 2000 Summary File 1 Technical Documentation prepared by the U.S. Census Bureau, 2001, at <www.census.gov/cen2000/doc/sf1.pdf>.

Sex

Individuals were asked to mark either “male” or “female” to indicate their sex. For most cases in which sex was not reported, the appropriate entry was determined from the person’s given (i.e., first) name and household relationship. Otherwise, sex was allocated according to the relationship to the householder and the age of the person. (For more information on allocation, see [“2010 Census: Operational Overview and Accuracy of the Data.”](#))

Sex Ratio—The sex ratio represents the balance between the male and female populations. Ratios above 100 indicate a larger male population, and ratios below 100 indicate a larger female population. This measure is derived by dividing the total number of males by the total number of females and then multiplying by 100. It is rounded to the nearest tenth.

Comparability—A question on the sex of individuals has been asked of the total population in every census.

Stepson or Stepdaughter

See [“Household Type and Relationship.”](#)

Type of Institution

See [“Group Quarters.”](#)

LIVING QUARTERS

All living quarters are classified as either housing units or group quarters. Living quarters are usually found in structures that are intended for residential use, but they also may be found in structures intended for nonresidential use. Any place where someone lives is considered to be a living quarters, such as an apartment, dormitory, shelter for people experiencing homelessness, barracks, or nursing facility. Even tents, old railroad cars, and boats are considered to be living quarters if someone claims them as his or her residence. Note that structures that do not meet the definition of a living quarters at the time of listing may meet the definition at the time of enumeration. Some types of structures, such as those cited in items 1 and 2 below, are included in address canvassing operations as place holders, with the final decision on their living quarters status made during enumeration. Other types of structures, such as those cited in items 3 and 4 below, are not included in the address canvassing operation.

U.S. Census Bureau, 2010 Census Summary File 1

her residence. Note that structures that do not meet the definition of a living quarters at the time of listing may meet the definition at the time of enumeration. Some types of structures, such as those cited in items 1 and 2 below, are included in address canvassing operations as place holders, with the final decision on their living quarters status made during enumeration. Other types of structures, such as those cited in items 3 and 4 below, are not included in the address canvassing operation.

The following examples are not considered living quarters:

1. Structures, such as houses and apartments, that resemble living quarters but are being used entirely for nonresidential purposes, such as a store or an office, or used for the storage of business supplies or inventory, machinery, or agricultural products, are not enumerated.
2. Single units as well as units in multiunit residential structures under construction in which no one is living or staying are not considered living quarters until construction has reached the point where all

exterior windows and doors are installed and final usable floors are in place. Units that do not meet these criteria are not enumerated.

3. Structures in which no one is living or staying that are open to the elements—that is, the roof, walls, windows, and/or doors no longer protect the interior from the elements—are not enumerated. Also, vacant structures with a posted sign indicating that they are condemned or they are to be demolished are not enumerated.

4. Boats, recreational vehicles (RVs), tents, caves, and similar types of shelter that no one is using as a usual residence are **not** considered living quarters and are not enumerated.

Group Quarters

Group quarters are places where people live or stay in a group living arrangement, which are owned or managed by an entity or organization providing housing and/or services for the residents. This is not a typical household-type living arrangement. These services may include custodial or medical care as well as other types of assistance, and residency is commonly restricted to those receiving these services. People living in group quarters are usually not related to each other.

Group quarters include such places as college residence halls, residential treatment centers, skilled-nursing facilities, group homes, military barracks, correctional facilities, and workers' dormitories.

Institutional Group Quarters

Institutional group quarters (group quarters type codes 101–106, 201–203, 301, 401–405) are facilities that house those who are primarily ineligible, unable, or unlikely to participate in the labor force while residents.

Correctional Facilities for Adults (codes 101–106)—Correctional facilities for adults include the following types:

Federal detention centers (code 101)—Federal detention centers are stand alone, generally multi-level, federally operated correctional facilities that provide “short-term” confinement or custody of adults pending adjudication or sentencing. These facilities may hold pretrial detainees, holdovers, sentenced offenders, and Immigration and Customs Enforcement (ICE) inmates, formerly called Immigration and Naturalization Service (INS) inmates. These facilities include Metropolitan Correctional Centers (MCCs), Metropolitan Detention Centers (MDCs), Federal Detention Centers (FDCs), Bureau of Indian Affairs Detention Centers, ICE Service Processing Centers, and ICE Contract Detention Facilities.

Federal (code 102) and state (code 103) prisons—Federal and state prisons are adult correctional facilities where people convicted of crimes serve their sentences. Common names include prison, penitentiary, correctional institution, federal or state correctional facility, and conservation camp. The prisons are classified by two types of control: 1) “federal” (operated by or for the Bureau of Prisons of the U.S. Department of Justice) and 2) “state.” Residents who are forensic patients or criminally insane are classified on the basis of where they resided at the time of enumeration. Patients in hospitals (units, wings, or floors) operated by or for federal or state correctional authorities are counted in the prison population. Other forensic patients will be enumerated in psychiatric hospital units and floors for longterm non-acute patients. This category may include privately operated correctional facilities.

Local jails and other municipal confinement facilities (code 104)—Local jails and other municipal confinement facilities are correctional facilities operated by or for counties, cities, and American Indian and Alaska Native tribal governments. These facilities hold adults detained pending adjudication and/or people committed after adjudication. This category also includes work farms and camps used to hold people awaiting trial or serving time on relatively short sentences. Residents who are forensic patients or criminally insane are classified on the basis of where they resided at the time of enumeration. Patients in hospitals (units, wings, or floors) operated by or for local correctional authorities are counted in the jail population. Other forensic patients will be enumerated in psychiatric hospital units and floors for long-term non-acute care patients. This category may include privately operated correctional facilities.

Correctional residential facilities (code 105)—Correctional residential facilities are community-based facilities operated for correctional purposes. The facility residents may be allowed extensive contact with the community, such as for employment or attending school, but are obligated to occupy the premises at night. Examples of correctional residential facilities are halfway houses, restitution centers, and prerelease, work release, and study centers.

Military disciplinary barracks and jails (code 106)—Military disciplinary barracks and jails are correctional facilities managed by the military to hold those awaiting trial or convicted of crimes.

Juvenile Facilities (codes 201–203)—Juvenile facilities include the following:

Group homes for juveniles (non-correctional) (code 201)—Group homes for juveniles include communitybased group living arrangements for youth in residential settings that are able to accommodate three

or more clients of a service provider. The group home provides room and board and services, including behavioral, psychological, or social programs. Generally, clients are not related to the caregiver or to each other. Examples of non-correctional group homes for juveniles are maternity homes for unwed mothers, orphanages, and homes for abused and neglected children in need of services. Group homes for juveniles do not include residential treatment centers for juveniles or group homes operated by or for correctional authorities.

Residential treatment centers for juveniles (non-correctional) (code 202)—Residential treatment centers for juveniles include facilities that provide services primarily to youth on-site in a highly structured live-in environment for the treatment of drug/alcohol abuse, mental illness, and emotional/behavioral disorders. These facilities are staffed 24 hours a day. The focus of a residential treatment center is on the treatment program. Residential treatment centers for juveniles do not include facilities operated by or for correctional authorities.

Correctional facilities intended for juveniles (code 203)—Correctional facilities intended for juveniles include specialized facilities that provide strict confinement for their residents and detain juveniles awaiting adjudication, commitment or placement, and/or those being held for diagnosis or classification. Also included are correctional facilities where residents are permitted contact with the community for purposes such as attending school or holding a job. Examples of correctional facilities intended for juveniles are residential training schools and farms, reception and diagnostic centers, group homes operated by or for correctional authorities, detention centers, and boot camps for juvenile delinquents.

Nursing Facilities/Skilled-Nursing Facilities (code 301)—Nursing facilities/Skilled-nursing facilities include facilities licensed to provide medical care with 7-day, 24-hour coverage for people requiring B-16 Definitions of Subject Characteristics
U.S. Census Bureau, 2010 Census Summary File 1
long-term non-acute care. People in these facilities require nursing care, regardless of age. Either of these types of facilities may be referred to as nursing homes.

Other Institutional Facilities (codes 401–405)—Other institutional facilities include the following:
Mental (psychiatric) hospitals and psychiatric units in other hospitals (code 401)—Mental (psychiatric) hospitals and psychiatric units in other hospitals include psychiatric hospitals, units and floors for long-term non-acute care patients. The primary function of the hospital, unit, or floor is to provide diagnostic and treatment services for long-term non-acute patients who have psychiatric-related illness. All patients are enumerated in this category.

Hospitals with patients who have no usual home elsewhere (code 402)—Hospitals with patients who have no usual home elsewhere include hospitals that have any patients who have no exit or disposition plan, or who are known as “boarder patients” or “boarder babies.” All hospitals are eligible for inclusion in this category except psychiatric hospitals, units, wings, or floors operated by federal, state, or local correctional authorities. Patients in hospitals operated by these correctional authorities will be counted in the prison or jail population. Psychiatric units and hospice units in hospitals are also excluded. Only patients with no usual home elsewhere are enumerated in this category.

In-patient hospice facilities (both free-standing and units in hospitals) (code 403)—In-patient hospice facilities (both free-standing and units in hospitals) include facilities that provide palliative, comfort, and supportive care for terminally ill patients and their families. Only patients with no usual home elsewhere are tabulated in this category.

Military treatment facilities with assigned patients (code 404)—Military treatment facilities with assigned patients include military hospitals and medical centers with active duty patients assigned to the facility. Only these patients are enumerated in this category.

Residential schools for people with disabilities (code 405)—Residential schools for people with disabilities include schools that provide the teaching of skills for daily living, education programs, and care for students with disabilities in a live-in environment. Examples of residential schools for people with disabilities are residential schools for the physically or developmentally disabled.

Noninstitutional Group Quarters

Noninstitutional group quarters (group quarters type codes 501, 601, 602, 701, 702, 704, 706, 801, 802, 900, 901, 903, 904) are facilities that house those who are primarily eligible, able, or likely to participate in the labor force while residents.

College/University Student Housing (code 501)—College/University student housing includes

residence halls and dormitories, which house college and university students in a group living arrangement. These facilities are owned, leased, or managed either by a college, university, or seminary, or by a private entity or organization. Fraternity and sorority housing recognized by the college or university are included as college student housing. However, students attending the U.S. Naval Academy, U.S. Military Academy (West Point), U.S. Coast Guard Academy, and U.S. Air Force Academy are counted in military group quarters.

Military Quarters (codes 601 and 602)—Military quarters (code 601) are facilities that include military personnel living in barracks (including “open” barrack transient quarters) and dormitories and military ships (code 602). Patients assigned to Military Treatment Facilities and people being held in military disciplinary barracks and jails are not enumerated in this category. Patients in Military Treatment Facilities with no usual home elsewhere are not enumerated in this category.

Other Noninstitutional Facilities (codes 701, 702, 704, 706, 801, 802, 900, 901, 903, and 904)—Other noninstitutional facilities include the following:

Definitions of Subject Characteristics B-17

U.S. Census Bureau, 2010 Census Summary File 1

Emergency and transitional shelters (with sleeping facilities) for people experiencing homelessness

(code 701)—Emergency and transitional shelters (with sleeping facilities) for people experiencing homelessness are facilities where people experiencing homelessness stay overnight. These include:

1. Shelters that operate on a first-come, first-serve basis where people must leave in the morning and have no guaranteed bed for the next night.

2. Shelters where people know that they have a bed for a specified period of time (even if they leave the building every day).

3. Shelters that provide temporary shelter during extremely cold weather (such as churches). This category does not include shelters that operate only in the event of a natural disaster.

Examples are emergency and transitional shelters; missions; hotels and motels used to shelter people experiencing homelessness; shelters for children who are runaways, neglected, or experiencing homelessness; and similar places known to have people experiencing homelessness.

Soup kitchens, regularly scheduled mobile food vans, and targeted non-sheltered outdoor locations (codes 702, 704, and 706)—This category includes soup kitchens that offer meals organized as food service lines or bag or box lunches for people experiencing homelessness; street locations where mobile food vans regularly stop to provide food to people experiencing homelessness; and targeted non-sheltered outdoor locations where people experiencing homelessness live without paying to stay. This also would include persons staying in pre-identified car, recreational vehicle (RV), and tent encampments. Targeted non-sheltered outdoor locations must have a specific location description; for example, “the Brooklyn Bridge at the corner of Bristol Drive,” “the 700 block of Taylor Street behind the old warehouse,” or the address of the parking lot being utilized.

Group homes intended for adults (code 801)—Group homes intended for adults are community-based group living arrangements in residential settings that are able to accommodate three or more clients of a service provider. The group home provides room and board and services, including behavioral, psychological, or social programs. Generally, clients are not related to the caregiver or to each other. Group homes do not include residential treatment centers or facilities operated by or for correctional authorities.

Residential treatment centers for adults (code 802)—Residential treatment centers for adults provide treatment on-site in a highly structured live-in environment for the treatment of drug/alcohol abuse, mental illness, and emotional/behavioral disorders. They are staffed 24 hours a day. The focus of a residential treatment center is on the treatment program. Residential treatment centers do not include facilities operated by or for correctional authorities.

Maritime/Merchant vessels (code 900)—Maritime/merchant vessels include U.S. owned and operated flag vessels used for commercial or noncombatant government-related purposes at U.S. ports, on the sea, or on the Great Lakes.

Workers’ group living quarters and Job Corps centers (code 901)—Workers’ group living quarters and Job Corps centers include facilities such as dormitories, bunkhouses, and similar types of group living arrangements for agricultural and non-agricultural workers. This category also includes facilities that provide a full-time, year-round residential program offering a vocational training and employment program that helps young people 16 to 24 years old learn a trade, earn a high school diploma or GED, and get help finding a job. Examples are group living quarters at migratory farm-worker camps, construction workers’ camps, Job Corps centers, and vocational training facilities.

Living quarters for victims of natural disasters (code 903)—Living quarters for victims of natural

disasters are temporary group living arrangements established as a result of natural disasters.

Religious group quarters and domestic violence shelters (code 904)—Religious group quarters are living quarters owned or operated by religious organizations that are intended to house their members in a group living situation. This category includes such places as convents, monasteries, and abbeys. Living quarters for students living or staying in seminaries are classified as college student housing, not religious group quarters. Domestic violence shelters are community-based homes, shelters, or crisis centers that provide housing for people who have sought shelter from household violence and who may have been physically abused.

Comparability—Due to the consolidation of group quarters types and general streamlining of the definitions, several changes have been implemented in the 2010 Census group quarters definitions and type codes that are reflected in 2010 Census data products.

As in Census 2000, group quarters are either institutional group quarters or noninstitutional group quarters.

Institutional group quarters are facilities that house those who are primarily ineligible, unable, or unlikely to participate in the labor force while residents. This definition has been simplified since the 1990 and 2000 Censuses (both used the same definition, which focused on institutions providing formally authorized, supervised care or custody) to focus on labor force participation.

The phrase “institutionalized persons” in the 1990 Census data was changed to “institutionalized population” in Census 2000 and continues in the 2010 Census.

Correctional facilities for adults—In the 2010 Census data products, the Census 2000 term “other type of correctional institutions” is categorized as “correctional residential facilities.”

Juvenile facilities—Those group quarters categorized as “homes for abused, dependent, and neglected children” (public, private, or ownership unknown) in the Census 2000 data products are categorized as “group homes for juveniles (non-correctional)” in the 2010 Census data products. Those categorized in “training schools” (public, private, and ownership unknown), “detention centers, reception or diagnostic centers,” and “type of juvenile institution unknown” in Census 2000 data products are categorized in the 2010 Census data products as “correctional facilities intended for juveniles” (i.e., training schools and farms, reception and diagnostic centers, detention centers, boot camps and group homes operated by or for correctional authorities).

Nursing facilities/skilled-nursing facilities—In the 2010 Census data products, all nursing homes are categorized as “nursing facilities/skilled-nursing facilities.”

Other institutional facilities—Those group quarters categorized as “schools, hospitals, or wards for the physically handicapped” in Census 2000 data products are categorized as “residential schools for people with disabilities” in the 2010 Census data products. “Military hospitals or wards for chronically ill” are classified as “military treatment facilities with assigned patients” in the 2010 Census data products. Also, what were called “military hospitals with patients who have no usual home elsewhere” in Census 2000 data products are categorized as “hospitals with patients who have no usual home elsewhere” in 2010 Census data products. “Hospices or homes for the chronically ill or other hospitals or wards for chronically ill” are categorized in the 2010 Census data products as “in-patient hospice facilities.” “Hospitals and wards for drug/alcohol abuse” and “mentally ill (psychiatric) hospitals or wards” are categorized in the 2010 Census data products as “mental (psychiatric) hospitals and psychiatric units in other hospitals.”

The phrase “staff residents” was used for staff living in institutions in both the 1990 and 2000 Censuses.

In Census 2000, staff living in institutions included those living in “agricultural workers’ dormitories,” “other workers’ dormitories,” “Job Corps and vocational training facilities,” “dormitories for nurses and interns in military hospitals,” and “dormitories for nurses and interns in general hospitals.” In the 2010 Census, all these groups are categorized as “workers’ group living quarters and Job Corps centers.”

Noninstitutional group quarters—In the 1990 Census, the Census Bureau used the phrase “other persons in group quarters” for people living in noninstitutionalized group quarters. In 2000, this group was referred to for the first time as the “noninstitutionalized population.” In 2010, this population continues to be referred to as the noninstitutionalized population. Noninstitutional group quarters are facilities that house those who are primarily eligible, able, or likely to participate in the labor force while a resident.

As of Census 2000, the Census Bureau dropped the rule of classifying ten or more unrelated people living together as living in noninstitutional group quarters. This rule was used in the 1990 and 1980 Censuses.

In the 1970 Census, the criteria was six or more unrelated people.

College/University student housing—In the 2010 Census, residence halls and dormitories, which house college and university students in a group living arrangement, may be owned, leased, or managed either by a college, university, or seminary or by a private entity or organization. In Census 2000, these types of facilities had to be owned by the college or university.

Military quarters—In 1960 data products, people in military barracks were shown only for men. Starting in 1970 and to the present, data are available for both men and women in military barracks. What were classified as “transient quarters for temporary residents (military or civilian)” in Census 2000 data products

no longer include the civilian population, and the military residents are tabulated in “military quarters” in 2010 Census data products.

Other noninstitutional facilities—In the 2010 Census, “workers group living quarters and Job Corps centers” are comprised of the following Census 2000 group quarters types: “agriculture workers’ dormitories,” “other workers’ dormitories,” “Job Corps and vocational training facilities,” and “dormitories for nurses and interns in hospitals (general and military).” As in Census 2000 and also in 1990, workers’ dormitories were classified as group quarters regardless of the number of people sharing the dormitory. In 1980, ten or more unrelated people had to share the dorm for it to be classified as a group quarters. In the 2010 Census, “emergency and transitional shelters (with sleep facilities) for people experiencing homelessness” includes the Census 2000 categories “emergency and transitional shelters” and “shelters for children who are runaways, neglected, or without conventional housing.” In the 2010 Census, “religious group quarters” are combined with “shelters for abused women (or shelters against domestic violence)” to make the category “religious group quarters and domestic violence shelters.”

In the 2010 Census data products, the category “group homes intended for adults (non-correctional)” consists of the following group quarters types (as listed in Census 2000): “homes for the mentally ill,” “homes for the mentally retarded,” “homes for the physically handicapped,” “residential care facilities providing protective oversight,” and “other group homes.” “Homes or halfway houses for drug/alcohol abuse” are categorized as “residential treatment centers for adults (non-correctional).”

The following group quarters types that were included in Census 2000 are no longer classified as group quarters in the 2010 Census: “military hotels/campgrounds,” “transient locations,” and “other household living situations ‘dangerous encampments.’”

Like in Census 2000, rooming and boarding houses are classified as housing units in the 2010 Census. In the 1990 Census, these were considered group quarters.

Housing Units

A housing unit is a living quarters in which the occupant or occupants live separately from any other individuals in the building and have direct access to their living quarters from outside the building or through a common hall. Housing units are usually houses, apartments, mobile homes, groups of rooms, or single rooms that are occupied as separate living quarters. They are residences for single individuals, groups of individuals, or families who live together. A single individual or a group living in a housing unit is defined to be a household. Additional details about housing for the elderly population and group homes are provided in the section “Housing for the Older Population.”

B-20 Definitions of Subject Characteristics

U.S. Census Bureau, 2010 Census Summary File 1

For vacant housing units, the criteria of separateness and direct access are applied to the intended occupants whenever possible. Nontraditional living quarters such as boats, RVs, and tents are considered to be housing units **only** if someone is living in them and they are either the occupant’s usual residence or the occupant has no usual residence elsewhere. These nontraditional living arrangements are not considered to be housing units if they are vacant.

Housing units are classified as being either occupied or vacant.

Occupied Housing Unit—A housing unit is classified as occupied if it is the usual place of residence of the individual or group of individuals living in it on Census Day, or if the occupants are only temporarily absent, such as away on vacation, in the hospital for a short stay, or on a business trip, and will be returning.

The occupants may be an individual, a single family, two or more families living together, or any other group of related or unrelated individuals who share living arrangements.

Occupied rooms or suites of rooms in hotels, motels, and similar places are classified as housing units only when occupied by permanent residents; that is, occupied by individuals who consider the hotel their usual place of residence or who have no usual place of residence elsewhere. However, when rooms in hotels and motels are used to provide shelter for people experiencing homelessness, they are not housing units. Rooms used in this way are considered group quarters.

Vacant Housing Unit—A housing unit is classified as vacant if no one is living in it on Census Day, unless its occupant or occupants are only temporarily absent—such as away on vacation, in the hospital for a short stay, or on a business trip—and will be returning.

Housing units temporarily occupied at the time of enumeration entirely by individuals who have a usual residence elsewhere are classified as vacant. When housing units are vacant, the criteria of separateness and direct access are applied to the intended occupants whenever possible. If that information cannot be obtained, the criteria are applied to the previous occupants.

Boats, RVs, tents, caves, and similar shelter that no one is using as a usual residence are **not** considered

living quarters and therefore are not enumerated at all.

Housing for the Older Population—Housing specifically for the older population has become more and more prevalent and is being identified by many different names. Living quarters in these facilities, unless they meet the definition of skilled nursing facilities, are housing units, with each resident's living quarters considered a separate housing unit if it meets the housing unit definition of direct access. These residential facilities may be referred to as senior apartments, active adult communities, congregate care, continuing care retirement communities, independent living, board and care, or assisted living. People may have to meet certain criteria to be able to live in these facilities, but once accepted as residents they have unrestricted access to and from their units to the outside.

Housing units and group quarters may coexist under the same entity or organization and in some situations, actually share the same structure. An assisted living facility complex may have a skilled nursing floor or wing that meets the definition of a nursing facility and is, therefore, a group quarters, while the rest of the living quarters in the facility are considered to be housing units. Congregate care facilities and continuing care retirement communities often consist of several different types of living quarters, with varying services and levels of care. Some of the living quarters in these facilities and communities are considered to be housing units and some are considered to be group quarters, depending on which definition they meet.

Comparability—The first Census of Housing in 1940 established the “dwelling unit” concept. Although the term became “housing unit” and the definition was modified slightly in succeeding censuses, the housing unit definition remained essentially comparable between 1940 and 1990. Since 1990, two changes were made to the housing unit definition.

Definitions of Subject Characteristics B-21

U.S. Census Bureau, 2010 Census Summary File 1

The first change eliminated the concept of “eating separately.” The elimination of the eating criterion is more in keeping with the United Nations’ definition of a housing unit that stresses the entire concept of separateness rather than the specific “eating” element. Although the “eating separately” criterion previously was included in the definition of a housing unit, the data needed to distinguish whether the occupants ate separately from any other people in the building were not collected. (Questions that asked households about their eating arrangements have not been included in the census since 1970.) Therefore, the current definition better reflects the information that is used in the determination of a housing unit. The second change for Census 2000 and the 2010 Census eliminated the “number of nonrelatives” criterion; that is, “9 or more people unrelated to the householder” which caused a conversion of housing units to group quarters. This change was prompted by the following considerations: 1) there were relatively few such conversions made as a result of this rule in 1990; 2) household relationship and housing data were lost by converting these units to group quarters; and 3) there was no empirical support for establishing a particular number of nonrelatives as a threshold for these conversions.

In 1960, 1970, and 1980, vacant rooms in hotels, motels, and other similar places where 75 percent or more of the accommodations were occupied by permanent residents were counted as part of the housing inventory. However, an evaluation of the data collection procedures prior to the 1990 Census indicated that the concept of permanency was a difficult and confusing procedure for enumerators to apply correctly. Consequently, in the 1990 Census, vacant rooms in hotels, motels, and similar places were not counted as housing units. In Census 2000 and the 2010 Census, we continued the procedure adopted in 1990.

HOUSING CHARACTERISTICS

Household Size

This question is based on the count of people in occupied housing units. All people occupying the housing unit are counted, including the householder, occupants related to the householder, and lodgers, roomers,

boarders, and so forth.

Average Household Size of Occupied Unit—The average household size of an occupied unit is a measure obtained by dividing the number of people living in occupied housing units by the total number of occupied housing units. This measure is rounded to the nearest hundredth.

Average Household Size of Owner-Occupied Unit—The average household size of an owner-occupied unit is a measure obtained by dividing the number of people living in owner-occupied housing units by the total number of owner-occupied housing units. This measure is rounded to the nearest hundredth.

Average Household Size of Renter-Occupied Unit—The average household size of a renter-occupied unit is a measure obtained by dividing the number of people living in renter-occupied housing units by the

total number of renter-occupied housing units. This measure is rounded to the nearest hundredth.

Tenure

Tenure was asked at all occupied housing units. All occupied housing units are classified as either owner-occupied or renter-occupied.

Owner-Occupied—A housing unit is owner-occupied if the owner or co-owner lives in the unit even if it is mortgaged or not fully paid for. The owner or co-owner must live in the unit and usually is Person 1 on the questionnaire. The unit is “Owned by you or someone in this household with a mortgage or loan” if it is being purchased with a mortgage or some other debt arrangement, such as a deed of trust, trust deed, contract to purchase, land contract, or purchase agreement. The unit is also considered owned with a mortgage if it is built on leased land and there is a mortgage on the unit.

A housing unit is “Owned by you or someone in this household free and clear (without a mortgage or loan)” if there is no mortgage or other similar debt on the house, apartment, or mobile home, including B-22 Definitions of Subject Characteristics

U.S. Census Bureau, 2010 Census Summary File 1

units built on leased land if the unit is owned outright without a mortgage. Although most tables show total owner-occupied counts, selected tables separately identify the two owner categories.

Renter-Occupied—All occupied housing units which are not owner-occupied, whether they are rented or occupied without payment of rent, are classified as renter-occupied. “Rented” includes units in continuing care, sometimes called life care arrangements. These arrangements usually involve a contract between one or more individuals and a service provider guaranteeing the individual shelter, usually an apartment, and services, such as meals or transportation to shopping or recreation. The “no rent paid” category includes units provided free by friends or relatives or in exchange for services, such as a resident manager, caretaker, minister, or tenant farmer. Housing units on military bases are also classified in the “No rent paid” category.

Comparability—Data on tenure have been collected since 1890. In 1990, the response categories were expanded to allow the respondent to report whether the unit was owned with a mortgage or loan, or free and clear (without a mortgage). The distinction between units owned with a mortgage and units owned free and clear was added in 1990 to improve the count of owner-occupied units. Research after the 1980 Census indicated some respondents did not consider their units owned if they had a mortgage. In Census 2000, we continued with the same tenure categories used in the 1990 Census. In 2010, the instruction “Include home equity loans” was added following the response category “Owned by you or someone in this household with a mortgage or loan?” Additional changes included revising the wording of two response categories from “Rented for cash rent?” to “Rented?” and “Occupied without payment of cash rent?” to “Occupied without payment of rent?”

Vacancy Status

The data on vacancy status were obtained from Enumerator Questionnaire item C. Vacancy status and other characteristics of vacant units were determined by census enumerators obtaining information from landlords, owners, neighbors, rental agents, and others. Vacant units are subdivided according to their housing market classification as follows:

For Rent—These are vacant units offered “for rent” and vacant units offered either “for rent” or “for sale.”

Rented, Not Occupied—These are vacant units rented but not yet occupied, including units where money has been paid or agreed upon, but the renter has not yet moved in.

For Sale Only—These are vacant units being offered “for sale only,” including units in cooperatives and condominium projects if the individual units are offered “for sale only.” If units are offered either “for rent” or “for sale,” they are included in the “for rent” classification.

Sold, Not Occupied—These are vacant units sold but not yet occupied, including units that have been sold recently, but the new owner has not yet moved in.

For Seasonal, Recreational, or Occasional Use—These are vacant units used or intended for use only in certain seasons or for weekends or other occasional use throughout the year. Seasonal units include those used for summer or winter sports or recreation, such as beach cottages and hunting cabins. Seasonal units also may include quarters for such workers as herders and loggers. Interval

ownership units, sometimes called shared-ownership or time-sharing condominiums, also are included here.

For Migrant Workers—These include vacant units intended for occupancy by migratory workers employed in farm work during the crop season. (Work in a cannery, freezer plant, or food-processing plant is not farm work.)

Other Vacant—If a vacant unit does not fall into any of the categories specified above, it is classified as “Other vacant.” For example, this category includes units held for occupancy by a caretaker or janitor and units held for personal reasons of the owner.

Definitions of Subject Characteristics B-23

U.S. Census Bureau, 2010 Census Summary File 1

Homeowner Vacancy Rate—The homeowner vacancy rate is the proportion of the homeowner inventory that is vacant “for sale.” It is computed by dividing the number of vacant units “for sale only” by the sum of the owner-occupied units, vacant units that are “for sale only,” and vacant units that have been sold but not yet occupied, and then multiplying by 100. This measure is rounded to the nearest tenth.

Rental Vacancy Rate—The rental vacancy rate is the proportion of the rental inventory that is vacant “for rent.” It is computed by dividing the number of vacant units “for rent” by the sum of the renter-occupied units, vacant units that are “for rent,” and vacant units that have been rented but not yet occupied, and then multiplying by 100. This measure is rounded to the nearest tenth.

Available Housing Vacancy Rate—The available housing vacancy rate is the proportion of the housing inventory that is vacant-for-sale only and vacant-for-rent. It is computed by dividing the sum of vacant-for-sale-only housing units and vacant-for-rent housing units, by the sum of occupied units, vacant-for-sale-only housing units, vacant-sold-not-occupied housing units, vacant-for-rent housing units, and vacant-rented-not-occupied housing units, and then multiplying by 100. This measure is rounded to the nearest tenth.

Comparability—Data on vacancy status have been collected since 1940. Since 1990, we have used the category “For seasonal, recreational, or occasional use.” In earlier censuses, separate categories were used to collect data on these types of vacant units. Also, in 1970 and 1980, housing characteristics generally were presented only for year-round units. Beginning in 1990 and continuing into Census 2000, housing characteristics are shown for all housing units. Census 2000 used a single vacancy status category for units that were either “Rented or sold, not occupied.” In 2010, we used two separate categories “Rented, not occupied” and “Sold, not occupied.” This change provided consistency with the American Community Survey and the Housing Vacancy Survey. These revised categories were incorporated in the calculations of the homeowner vacancy, rental vacancy, and the available housing vacancy rates.

DERIVED MEASURES

Census data products include various derived measures, such as medians, means, and percentages, as well as certain rates and ratios. Derived measures that round to less than 0.1 are not shown but indicated as zero.

Area Measurement and Density

The 2010 Census summary file geographic header record provides the size, in square meters, of geographic entities for which the U.S. Census Bureau tabulates and disseminates data. Land area is shown in Field Name AREALAND (starting position 199) and water area in Field Name AREAWATR (starting position 213). To convert square meters to square kilometers, divide by 1,000,000; to convert square kilometers to square miles, divide by 2.589988; to convert square meters to square miles, divide by 2,589,988.

Population density (average number of people per square mile) is calculated by dividing the number of people in a specified geographic area by its land area in square miles.

Housing unit density (average number of housing units per square mile) is calculated by dividing the number of housing units in a specified geographic area by its land area in square miles.

Average

See “[Mean](#).”

Interpolation

Interpolation is frequently used to calculate medians or quartiles and to approximate standard errors from tables based on interval data. Different kinds of interpolation may be used to estimate the value

of a function between two known values, depending on the form of the distribution. The most common distributional assumption is that the data are linear, resulting in linear interpolation.

B-24 Definitions of Subject Characteristics

U.S. Census Bureau, 2010 Census Summary File 1

Mean

This measure represents an arithmetic average of a set of values. It is derived by dividing the sum (or aggregate) of a group of numerical items by the total number of items in that group. For example, average family size is obtained by dividing the number of people in families by the total number of families (or family householders). (Additional information on means and aggregates is included in the separate explanations of many of the population and housing subjects.)

Median

This measure represents the middle value (if n is odd) or the average of the two middle values (if n is even) in an ordered list of n data values. The median divides the total frequency distribution into two equal parts: one-half of the cases falling below the median and one-half above the median. Each median is calculated using a standard distribution. The standard distribution for the calculation of median age is:

Age [116]

Under 1 year

1 year

2 years

3 years

4 years

5 years

.

.

.

112 years

113 years

114 years

115 years and over

(For more information, see ["Interpolation."](#))

Jam values will be assigned whenever the median falls in an open-ended interval. For example, if the median age value fell in the open-ended category 115 years and over, the value displayed would be 115+. The presentation of jam values will vary between products and types of media.

For data products displayed in American FactFinder, publications, or in display table format, medians that fall in the upper-most category of an open-ended distribution will be shown with a plus symbol (+) appended, and medians that fall in the lowest category of an open-ended distribution will be shown with a minus symbol (–) appended. For other data products and data files that are downloaded by users (i.e., FTP files), plus and minus signs will not be appended.

Percentage

This measure is calculated by taking the number of items in a group possessing a characteristic of interest and dividing by the total number of items in that group, and then multiplying by 100.

Rate

This is a measure of occurrences in a given period of time divided by the possible number of occurrences during that period. For example, the homeowner vacancy rate is calculated by dividing the number of vacant units "for sale only" by the sum of owner-occupied units, vacant units that are "for sale only," and vacant units that have been sold but not yet occupied, and then multiplying by 100. Rates are sometimes presented as percentages.

Data Collection and Processing Procedures C-1

U.S. Census Bureau, 2010 Census Summary File 1

Appendix IV: Public Involvement Plan

I-94 EAST-WEST FREEWAY AND STADIUM INTERCHANGE 70TH STREET – 25TH STREET

Public Involvement Plan

July 12, 2012

Milwaukee County
PROJECT ID 1060-27-00, -01



U.S. Department of Transportation
Federal Highway Administration

TABLE OF CONTENTS

I. INTRODUCTION	Page 3
II. PROJECT DESCRIPTION	Page 3
III. GOALS AND OBJECTIVES	Page 4
IV. PROJECT SCHEDULE	Page 5
V. PROJECT STAFF	Page 6
VI. PROJECT STAFF TRAINING	Page 7
VII. PUBLIC INVOLVEMENT PLAN ELEMENTS	Page 7
A. PUBLIC INFORMATIONAL MEETINGS AND PUBLIC HEARING	Page 8
B. SMALL GROUP MEETINGS	Page 11
C. 2013 AND 2014 WISCONSIN STATE FAIR OUTREACH	Page 13
D. GRASSROOTS COMMUNITY OUTREACH ACTIVITIES	Page 13
E. MEDIA OUTREACH	Page 14
F. ADVISORY GROUPS	Page 14
VIII. INFORMATIONAL MATERIALS	Page 15
IX. PRESENTATION OF TECHNICAL INFORMATION	Page 16
X. PUBLIC INVOLVEMENT TEAM MEETINGS	Page 17
XI. METHODS FOR INCORPORATING PUBLIC INPUT AND MEASURING PERFORMANCE	Page 17
XII. GIS PUBLIC INVOLVEMENT TRACKING	Page 18
XIII. PLAN REVIEW	Page 18
<i>Appendices</i>	Pages 19-21

I. INTRODUCTION

This Public Involvement Plan for the I-94 East-West Freeway Corridor Study (the Study) provides a framework for both soliciting information from, and disseminating information to, a wide range of stakeholders including residents, businesses, community groups and faith-based organizations, elected officials, and other interested parties.

This is a multi-faceted plan designed to achieve meaningful input via a comprehensive and transparent process.

The Plan will allow for several things: (1) a comprehensive geographical range of community outreach; (2) a substantial number of opportunities for both outreach and feedback; and (3) ultimately, significant interaction between the alternatives development and environmental document processes with stakeholders and interested parties. The plan will accommodate all of these elements while retaining the opportunity for flexibility and change throughout the Study process.

This Plan is also based on the same concepts that the Wisconsin Department of Transportation (WisDOT) has employed on other Southeast Freeway projects, including:

- Meeting with anyone, anyplace, anytime to create meaningful dialogue;
- Establishing credibility and trust within the community; and
- Being the first and best source of information about the project.

II. PROJECT DESCRIPTION

The I-94 East-West Corridor includes approximately 2.85 miles of I-94 between 70th Street and 25th Street, and WIS 341/US 41 between Frederick Miller Way and State Street (including the Stadium Interchange) in Milwaukee County. This corridor provides a critical interstate link for manufacturers, commuters, sports fans, and tourists within the Milwaukee Metropolitan Area and the Southeast Region of Wisconsin. This section of I-94 carries high traffic volumes, which currently vary between 138,000 and 156,000 AADT (Average Annual Daily Traffic). These traffic volumes are expected to grow to a range from 180,000 to 190,000 along I-94 by 2040. Because of the outdated design, this part of the freeway system has over 450 crashes per year, which translates into a significantly greater crash rate than the statewide average for similar facilities. Beyond the safety problems, the corridor is also displaying significant physical degradation (the corridor was built in the early and mid 1960s), and also features a number of horizontal, vertical, typical section, and vertical clearance design deficiencies.

WisDOT has initiated an environmental and engineering analysis of the I-94 East-West Freeway to examine the Stadium Interchange and service interchanges, determine traffic and infrastructure needs, evaluate alternatives, identify impacts of the alternatives, and develop a preferred reconstruction alternative.

III. GOALS AND OBJECTIVES

The primary objective of the Plan is to provide an open and inclusive informational program to all stakeholders geared toward the goal of the determination of a preferred alternative.

Achieving the goal will require the fulfillment of several objectives:

1. Establish and maintain the legitimacy of the Study.
2. Establish and maintain the legitimacy of the project planning process.
3. Understand and articulate project history.
4. Get to know all the potentially affected interests and see the project through their eyes.
5. Identify all potentially relevant problems and work to generate solutions to those problems, within the requirements and limitations of engineering, environmental, and other controlling factors.
6. Articulate and clarify the key issues.
7. Establish credibility.
8. Ensure that project communication is understandable to all stakeholders.
9. Listen to, and understand, information that is communicated by all stakeholders.

IV. PROJECT SCHEDULE

The Study began on March 28, 2012 and is scheduled to be complete in 29 months (by August 2014). The schedule below (Figure 1) illustrates major milestones and tasks that will be completed over the 29-month study schedule.

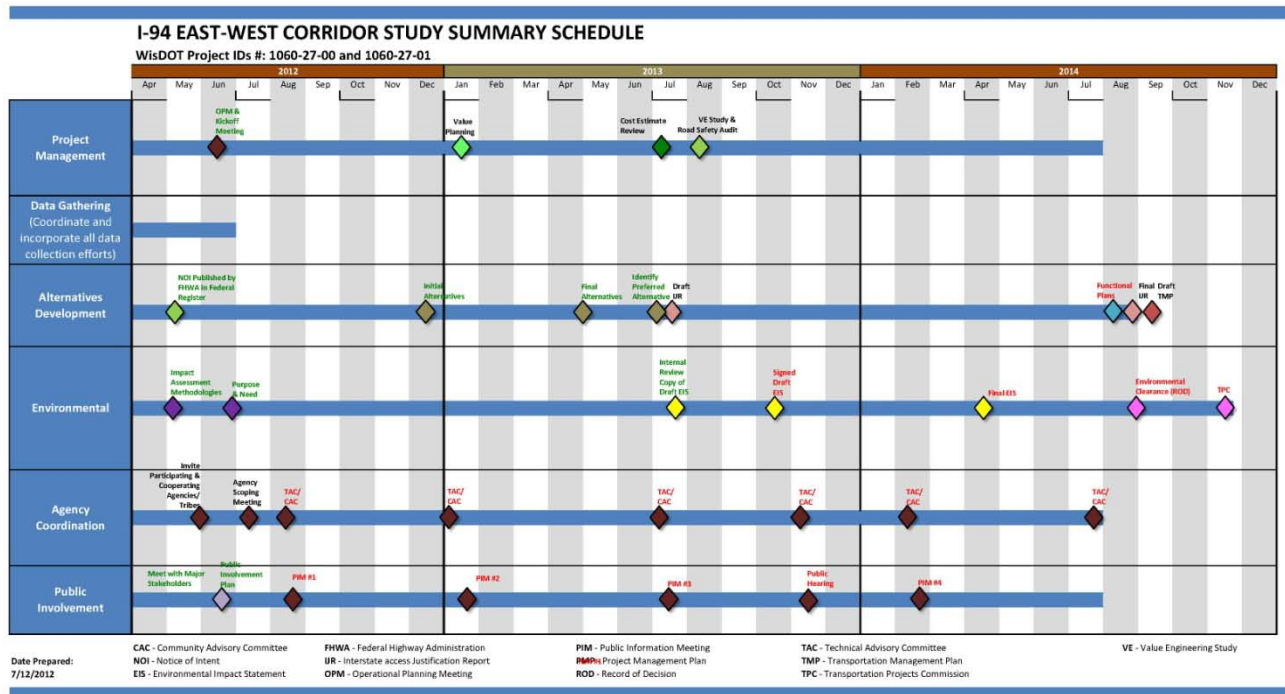


Figure 1 – draft study schedule

The initial focus of the Study will be to gather data, analyze and quantify existing operations and deficiencies within the existing highway system, develop alternatives, and meet with stakeholders and the public for their input. Later stages of the Study involve the narrowing of alternatives based on public input, cost, engineering and environmental factors.

At the conclusion of the Study, a single alternative (build or no-build) will be selected for implementation. A separate public involvement plan will be developed for the subsequent preliminary and final design phases, and construction phase, of the project.

V. PROJECT STAFF

WisDOT's major projects study staff, and by extension its study consultant CH2M HILL, will be responsible for the implementation of the overall public involvement plan for the Study and will be referred to as ***"the team"*** throughout this plan. The Public Involvement (PI) team will work closely with the design team to ensure that all staff members are provided opportunities to meet and communicate with the public in both large and small-scale meetings and presentations.

The PI team will also interface with other WisDOT and/or consultant staff involved in the areas of environmental justice and minority economic opportunities outreach.

8.1 WISDOT PI STAFF AND ROLES

- David Nguyen Project Development Chief responsible for all project activities including PI
- Tony Barth Project Supervisor
- Jason Lynch Project Manager
- Dobra Payant Deputy Project Manager
- Emlynn Grisar Southeast Region Communications Manager responsible for all PI activities
- Various project staff Oversight and participation in all elements of this Plan

8.2 CH2M HILL PI STAFF AND ROLES

- Brad Heimlich Project Manager, and Co-Task Lead for PI
- Beth Foy Co-Task Lead for PI; responsible for day to day PI administration and strategy
- Helen Dixon Responsible for PI strategy and outreach
- Various project staff Responsible for such elements as Advisory Committees, public information meetings, and specific outreach elements listed elsewhere in this Plan

VI. PROJECT STAFF TRAINING

Prior to beginning public outreach, CH2M HILL will share information on the Study with all project staff to acquaint them with the following:

- Project History
- Previous Studies
- FDM/NEPA/WEPA process
- FAQ
- Schedule
- Team Roles and Responsibilities
- Corridor Overview
- PI Plan elements and objectives
- PI tools and documentation protocols and requirements

VII. PUBLIC INVOLVEMENT PLAN ELEMENTS

Outreach Approach

The I-94 East-West Freeway PI Plan communicates activities to the following:

- General public outreach
- Community outreach
 - Affected adjacent residents
 - Unique groups/communities – outreach to low income groups, minorities, disabled and elderly groups
- Business outreach
 - Regional stakeholders
 - Local stakeholders
 - Interchange groups
 - Individual businesses
- Industry stakeholders
 - Freight
 - Statewide and regional business users of the I-94 East-West Freeway
- Native American Tribes
- DBE firms
- Agencies and local officials – outreach to local governments, the Regional Planning Commission, transit providers, emergency providers, ports, harbors and airports
- Elected officials

The project teams anticipate each of these audiences will have key interests in the project corridor related to design and construction activities.

The PI team will bring an array of citizen participation techniques and tools to this initiative including, but not limited to the following:

a. Public Informational Meetings and a Public Hearing

Public Information Meetings

Four rounds of public information meetings (PIM) will be held during the 29-month study process. The first public information meeting will be held on two days. Each round of additional public information meetings will consist of one meeting held at a publicly accessible building in the project corridor. Meeting locations may include public schools, parks, or other easily identifiable locations. The meetings will be approximately 4 hours in duration with a start time of either 3 pm or 4 pm depending on input and attendance at the initial public meeting.

Media participation and coverage of the public information meetings will be encouraged via press releases and through coordination with WisDOT's Communications Manager.

The format will be an informal, open house style.

The meetings will be held at various times throughout the project to coincide with major study milestones. Project staff planners, roadway designers, traffic engineers and real estate specialists will be in attendance to listen to community concerns about the Study area and discuss various solutions to specific issues and concerns.

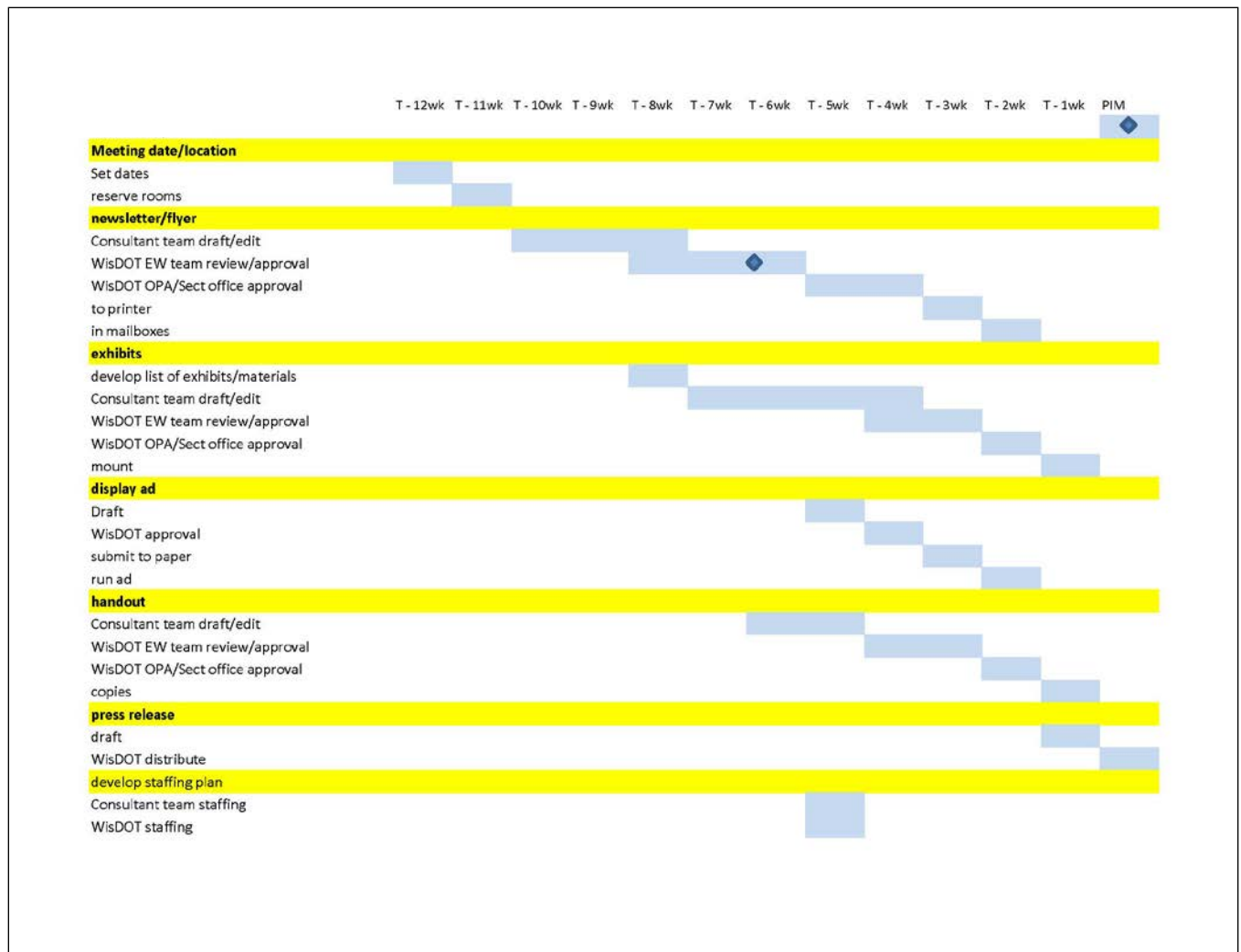


Figure 2 – PIM preparation schedule

PIM 1 is planned for late summer 2012. The goals of the first public information meeting are:

- To establish initial contact with the community at large.
- To engage the community in a more hands-on meeting.
- To provide basic existing corridor engineering, environmental, and operational information.
- To solicit public input regarding the purpose of, and need for, the project.
- To listen to the concerns of individual residents and businesses regarding the project.
- To give the public the opportunity to speak “one-on-one” with members of the project team.
- To provide the public an opportunity to “brainstorm” and present initial replacement and improvement concepts.

- To effectively utilize the information received from the public in developing an initial range of alternatives across a broad spectrum of categories (from replace-in-kind to full modernization).

One round of two open house public information meetings will be conducted. A newsletter/project fact sheet will be sent out to the project mailing list inviting people to attend these meetings.

These meetings will serve as the Public Scoping meetings for the project. People will be given the opportunity to review information collected during the early phase of the study along with basic information about the scope and schedule of the Study.

Most importantly, the public will be given the chance to provide input regarding the Study needs and potential alternatives. They will also be given an opportunity to voice any issues or areas of concern that they may have.

Using large aerial maps, people will be able to locate their homes or areas of interest and write their particular comments on the map, a comment sheet, or add a post-it note. These comments will be entered into the project records and will be used by the team in determining significant public concerns. Comments will be taken into consideration by the engineering staff in determining realistic, cost effective and viable alternatives.

A summary of issues will be developed including a response or disposition of each issue. This summary will be incorporated into materials for the second PIM.

PIM 1 will be announced via a project fact sheet mailing and will be advertised in local newspapers. These meetings will be held on separate nights at publicly accessible building(s) in the project corridor.

PIM 2 is planned for early 2013. The purpose of this meeting is to again share project purpose and need and geometric, environmental, and operational conditions. In addition, this meeting will provide the opportunity to introduce the initial alternatives developed by the project team with input from the public at PIM 1. Existing and forecast future traffic conditions, existing crash data and existing deficiencies will be available to the public for their review and comment. Based on the information received at this PIM, the project team will refine alternatives, eliminating some and adding others based on public input, cost, feasibility, impacts, local government input, business input, traffic operations, and safety.

Comments will be collected. A summary of issues will be developed including a response or disposition of each issue. This summary will be incorporated into material for the third Public Information Meeting.

PIM 3 is planned for the late spring/summer of 2013. This meeting will take place after the alternatives (including impacts and costs) have been refined and will give the public the opportunity to comment on the various refined alternatives. The project team will then

evaluate the remaining alternatives to determine the alternatives that will be evaluated in more detail in the Environmental Impact Statement.

Comments will be collected. A summary of issues will be developed including a response or disposition of each issue. This summary will be incorporated into materials for the Public Hearing.

PIM 4 is planned for early 2014, after the public hearing. The public will be shown the preferred alternative, impact information and information on remaining project steps and construction schedule for their input and comment as the process moves forward into subsequent phases.

Comments will be collected. A summary of issues will be developed including a response or disposition of each issue.

Public Hearing on Draft Environmental Impact Statement

After the Draft Environmental Impact Statement is prepared, a public hearing will be held to provide the public the opportunity to officially record their comments on the preferred alternative. The public hearing is expected to be held in November 2013.

A pre-hearing conference will be held prior to the public hearing to brief WisDOT management and other WisDOT staff who attend the hearing but are not on the project team. The project team will make a presentation including project concepts, alternatives and their impacts, schedule information, results of public involvement and agency coordination, public hearing notice, upcoming project milestones and a review of public hearing informational materials.

The public hearing will be on one night, at a publicly accessible building in the project corridor. Meeting location may be a public school, Miller Park or another easily identifiable location. The hearing will be approximately 4 hours in duration with a start time of either 3 pm or 4 pm depending on input and attendance at the public information meetings.

The hearing will be conducted in a hybrid (both an open house where individuals may ask the project team questions one-on-one, and a formal setting where project information will be read into the record and formal public testimony will be taken). Court reporters will be available to take individual testimony and to record testimony given to the hearing panel. Two venues will be provided: one venue will provide the opportunity to provide testimony in a private setting while a second venue will provide individuals an opportunity to present their testimony in a room accessible to other public hearing participants. All public hearing testimony will be included in the public hearing transcripts that will be reviewed by WisDOT and FHWA.

The project team will compile, summarize comments, and prepare responses for review by WisDOT. They will also prepare a public hearing record and provide that information to various appropriate agencies.

b. Small Group Meetings

Individual Meetings with Elected Officials and Local Governments

Initial project meetings will be held with elected officials and local governments to solicit their concerns and information needs, and to learn how and when they would like to be involved in the study process. The purpose of these meetings is also to determine what issues related to the I-94 East-West Freeway Project are of key concern and to lay the ground work for a good working relationship, and later for a sound and comprehensive alternatives development and environmental analysis effort.

Throughout the study process, the project team will meet with city, county, and state elected officials. Because these elected officials represent various residents and businesses as part of their constituency, it is desirable to provide them with an early “heads-up” regarding what is occurring in the study process as well as what work is planned for the near future (for example, when a neighborhood meeting is planned that they may want to attend). These meetings will generally take place on an individual or very small group basis.

State level elected official meetings (and those with local units of government, at their discretion) will be arranged by the WisDOT Office of the Secretary with support from the project team.

Meetings will be documented on the PI meeting calendar.

See Appendix A for a list of Elected Officials.

Meetings with Key Interest Groups and Businesses

Initial project meetings will be held with key Special Interest Groups and Businesses to solicit their concerns and information needs, and to learn how and when they would like to be involved in the Study process. These interviews will generally involve a small group of organization representatives rather than its entire membership. The purpose of these meetings is also to determine what issues related to the Study are of key concern and to lay the ground work for a good working relationship, and later for a sound and comprehensive alternatives development and environmental analysis effort. A concerted effort will be made to identify specific units within appropriate stakeholders with whom to coordinate collectively or individually (e.g., engineering, governmental relations, and/or financial-operational management at a business interest) to maximize communications on pertinent elements of the alternatives and their potential impacts.

The project team will meet with representatives of key community, business, environmental, and metropolitan organizations such as the Milwaukee Metropolitan Association of Commerce. A Power Point presentation will be developed and modified as appropriate during the course of the Study for use with Interest Groups. Regular updates and briefings will be held as the Study progresses.

Meetings will be documented on the PI meeting calendar.

See Appendix B for a list of Special Interest Groups and Businesses.

c. 2013 and 2014 Wisconsin State Fair Outreach

If required, the consultant project team will transport exhibits for set-up and tear-down the day before and the day following the 11-day run of the 2013 and 2014 Wisconsin State Fair. The WisDOT project team will provide staff for the 11 days of each Fair.

d. Grassroots Community Outreach Activities

Community outreach that establishes a presence and reputation of openness and responsiveness for the Study team amongst stakeholders, and that produces tangible and constructive feedback, requires a proactive grassroots interaction effort. Establishing and maintaining trust and credibility with residents, businesses and those publics interested in the project Study is important in setting the foundation for informed consent. Providing accurate, timely and understandable information in a variety of formats, including the spoken word at the door, is a key element in establishing trust and credibility.

Property Owner Outreach

The project team will meet with adjacent property owners as requested or as needed, throughout the Study, to discuss property or neighborhood-specific issues, the Study process, and ongoing activities and developments. These meetings will be one-on-one, with neighborhood associations, and in other venues as requested.

Community-Based Organization Outreach

Initial project kick-off interviews will be held with selected community organizations to solicit their concerns and information needs, and to learn how and when they would like to be involved in the Study process. These interviews will generally involve a small group of organization representatives rather than its entire membership. The purpose of these meetings is also to determine what issues related to the I-94 East-West Freeway Project are

of key concern and to lay the ground work for a good working relationship, and later for a sound and comprehensive alternatives development and environmental analysis effort.

The PI team will meet with various community organizations located in Milwaukee, West Allis, Wauwatosa, West Milwaukee, and elsewhere as requested, throughout the 29-month study process. A Power Point presentation will be developed and modified as appropriate during the course of the study for use with smaller meetings, such as executive directors and organization boards as well as, for larger groups.

See Appendix B for a list of Community Organizations.

Minority and Low-Income Outreach; Environmental Justice

The PI team will proactively seek out minority and low-income groups in the project area and request opportunities to meet to discuss issues that may be either universal, or unique to their community. Translations will be provided for Spanish-speaking (or any others as identified or necessary) people in newsletters, on the Web page and, if requested, at other events related to the project. The PI team will work with the environmental justice staff to assist in developing or implementing an EJ plan for the Study.

e. Media Outreach

Local media will play a major role in defining and explaining major projects and can spread information effectively and widely. Local television and radio have historically covered PIMs and other meetings. The Study team, in coordination with and at the direction of the WisDOT Communications Manager, will utilize local and community newspapers to facilitate coverage of the Study and public meetings. Press releases will be sent to all local media outlets prior to PIMs and other Study milestones.

The project team contacts for the I-94 East-West Freeway project media requests are the WisDOT SE Region Communications Manager, Emlynn Grisar and WisDOT Project Development Chief David Nguyen. All requests for information must be referred to them. A member of the public involvement team will be assigned to work with reporters who attend the PIMs to make sure they have the information they need and the opportunity to interview project spokespersons.

Event opportunities for participation by WisDOT's Secretary or other WisDOT high level officials will be evaluated on a regular and ongoing basis, and reviewed with project staff from WisDOT to determine validity and specific elements.

It is the project team's desire to build strong relationships with local media.

See Appendix C for a list of Local Media.

f. Advisory Groups

Technical Advisory Committee (TAC)

Technical Advisory Committee meetings will be held with representatives from WisDOT; FHWA; SEWRPC; Milwaukee County; and Cities of Milwaukee, Wauwatosa, West Allis; and the Village of West Milwaukee. Other Advisory Group members may include Engineers, DPWs, or similar staff. Representatives from MMSD and DNR will be invited as needed. The group's role will be to assist the team in identifying project issues and developing project alternatives. Six TAC meetings are anticipated, to be conducted before each of 4 PIMs, the public hearing, and at the conclusion of the Study phase.

Community Advisory Committee (CAC)

Community Advisory Committee meetings will be held with representatives from WisDOT, FHWA, residents, community-based organizations, economic development groups, and small business groups within the Study area.

Six CAC meetings are anticipated, to be conducted before each of 4 PIMs, the public hearing, and at the conclusion of the Study phase

VIII. Informational Materials

Mailing list and meeting calendars

The project team will obtain, maintain, and update the master mailing list throughout the Study. The project mailing list will also be linked to the public involvement GIS database.

The project team will develop and maintain a public involvement calendar that will include all public meetings for the Study. The calendar will be maintained on the project shared drive and will be accessible to the project team.

Web Page

Project information will be available on WisDOT's web page. The site will include data pertaining to existing facilities and operations, recent study developments, study schedule, maps, alternatives, a summary of the purpose and need for the I-94 East-West Freeway project and links to related web sites. Updated information will be added to the web site on a regular basis and as necessary prior to, and after, key Study milestones.

All information posted on the web site will be reviewed and posted by WisDOT Office of Public Affairs. The web site will also include links for direct E-mail connections with WisDOT project staff. WisDOT project staff will respond to web page and email inquiries as necessary, with assistance from CONSULTANT staff as required.

Newsletters

The project team will prepare one newsletter prior to each public informational meeting, and prior to the public hearing. The newsletters will be concise but comprehensive records of project activities to date which will include information on the project development process, schedule milestones, brief reports on meetings that have occurred, continued updates on alternatives, and announcements about upcoming meetings.

A total of five newsletters will be mailed to those on the project's mailing list, including businesses and organizations within the project area. The newsletters will be mailed within two weeks prior to the public information meetings. Translations into Spanish (and other languages, as needed) will be made available upon request and will be posted on the website.

All written pieces including newsletters, presentations, and handouts will be approved through WisDOT's regional and, as needed, central office prior to printing or dissemination.

IX. Presentation of Technical Information

The general public is often times not familiar with technical data and terminology that is used by engineers, designers and planners. In order to achieve effective two-way communication between the Study team and the general public, technical phrases and data must be clearly explained in a format easily understood. It is much easier for people to understand something that they can see as opposed to something that is verbally explained to them. The project team will develop "user-friendly" guiding principles (rates of curvature, right-of-way guidelines, bridge dimensions, etc.) to help the public understand the constraints within which the design and alternatives development process occurs. These tools will be explained and provided during the early PIMs to provide the public with tools to explain concepts and ideas regarding possible alternatives. As alternatives are developed and refined, the Study team will develop computer-generated three-dimensional models of the various alternatives and other tools to assist the general public in their understanding of the project.

To assist the public's understanding of the project, the study team will employ several techniques, including:

- Project technical staff shall work with PI staff in the design of technical exhibits;
- Presenting information to the public that is accurate, timely and consistent;
- Assisting the public by defining, in layman's terms, key engineering and construction terminology, to assist both their understanding of the project as well as facilitate their engagement;
- Using graphics as much as possible to explain complicated analysis or findings; and
- Making no promises, but engaging in active listening and two-way dialogue.

The SE Region Communications Manager and Central Office will approve all exhibits.

X. Public Involvement Team Meetings

The Public Involvement Project Team will meet/teleconference on a monthly basis to discuss public involvement issues and status. Additionally, as work progresses, the team will meet to review the public involvement plan and other public involvement opportunities.

XI. Methods for Incorporating Public Input and Measuring Performance

Input from community interviews, meetings with community-based organizations, special interest groups, neighborhood organizations, businesses and local, city and state officials and elected officials will be documented via meeting summaries that will be completed by an attending project team member. These summary reports will be e-mailed to the appropriate staff for review and then kept on file to be a part of the final Project Record. A summary of public involvement activities will be provided in the project's Environmental Impact Statement. A meeting summary template will be developed for use as a tool to document meeting information and key issues of concern. It will be a primary goal and objective of the study team to continually monitor the volume and content of feedback received, to determine trends, key issues, FAQ material, and other information that could/would materially impact the direction of the alternatives development, analysis, and environmental documentation processes.

Information and comments that are gathered from public input throughout the Study process will be given to the Study management team and design teams for their review. Comments or drawings written by the public on maps at PIM 1 will be reviewed and ultimately reflected in the preliminary range of alternatives presented at PIM 2. Subsequent comments and drawings at future PIMs will also be reviewed and may be included in future meetings.

The Community Sensitive Solutions process will be implemented during preliminary design, once a preferred alternative is identified.

XII. GIS Public Involvement Tracking

The I-94 East-West Freeway GIS Project Database will be used to track public comments and public involvement participation. GIS technology will allow the tracking of comments received during the public involvement process as well as tracking attendance at Public Information Meetings and the Public Hearing.

All comments received will be included in the database including comments from one on one meetings, email, written correspondence, telephone calls and/or small group meetings.

XIII. Plan Review

The Project Team will review and update this Public Involvement Plan as needed.

Appendix A – List of Elected Officials

JURISDICTION	OFFICE/POSITION
City of Milwaukee	Mayor
City of Milwaukee Common Council	Aldermen/women, Public Works Committee
Village of West Milwaukee	Village President
Village of West Milwaukee Board of Trustees	Trustees
City of Wauwatosa	Mayor
City of Wauwatosa Common Council	Aldermen/women
City of West Allis	Mayor
City of West Allis Common Council	Aldermen/women
Milwaukee County	County Executive
Milwaukee County Board of Supervisors	County Supervisors, Transportation Committee
State of Wisconsin	Governor
United States House of Representatives-- U.S. Congressional District 4 (Wisconsin)	U.S. Representative
United States House of Representatives-- U.S. Congressional District 5 (Wisconsin)	U.S. Representative
United States Senate--Wisconsin	U.S. Senator
United States Senate--Wisconsin	U.S. Senator
Waukesha County	County Executive
Waukesha County Board of Supervisors	County Supervisors, Public Works/Transportation
Wisconsin State Assembly District 11	State Assemblyperson
Wisconsin State Assembly District 12	State Assemblyperson
Wisconsin State Assembly District 13	State Assemblyperson
Wisconsin State Assembly District 14	State Assemblyperson
Wisconsin State Assembly District 15	State Assemblyperson
Wisconsin State Assembly District 17	State Assemblyperson
Wisconsin State Assembly District 24	State Assemblyperson
Wisconsin State Assembly District 84	State Assemblyperson
Wisconsin State Assembly District 98	State Assemblyperson
Wisconsin State Senate District 4	State Senator
Wisconsin State Senate District 5	State Senator
Wisconsin State Senate District 6	State Senator
Wisconsin State Senate District 8	State Senator
Wisconsin State Senate District 28	State Senator
Wisconsin State Senate District 33	State Senator

Appendix B – List of probable Special Interest Groups, Businesses, Community Organizations

- Veterans Affairs
- Zablocki VA Medical Center
- Miller Park
- Menomonee Valley Business Park
- Miller-Coors
- ATC and We-Energies
- Beth Hamedrosh Hagodel Cemetery
- Calvary Cemetery
- Spring Hill Cemetery
- Wood National Cemetery
- Anshai Lebowitz Cemetery
- CP Railroad
- Marquette University
- Neighborhood Associations:
 - Story Hill
 - Merrill Park
 - Valley Park
 - Washington Heights Neighborhood Association
 - Johnson's Woods
 - Charles Jacobus Park Neighborhood Association
 - Westtown
 - Vliet Street
 - Uptown Neighborhood/Business
 - Silver City Main Street District
 - Washington Park
- Milwaukee County
- MMSD
- MMAC
- Potawatomi Bingo Casino
- Girl Scouts
- Hispanic Chamber
- African American Chamber
- Summerfest

Appendix C – List of Local Media

Print Media

1. Milwaukee Journal Sentinel
2. Community NOW Wauwatosa
3. Community NOW West Allis/West Milwaukee
4. Community NOW Brookfield
5. Community NOW Elm Grove
6. El Conquistador
7. Waukesha Freeman
8. The Daily Reporter
9. Milwaukee Community Journal
10. The Milwaukee Times
11. Small Business Times
12. The Business Journal

Television Media

1. WTMJ Channel 4
2. WITI Fox 6
3. WDJT Channel 58
4. WISN Channel 12
5. WCGV Channel 24
6. Milwaukee public television - Channels 10/36

Radio Media

1. WISN AM 1130
2. WTMJ AM 620
3. WUWM FM 88.7
4. WJMR FM 98.3

Online media and bloggers

Appendix V: Title VI

Sec. 2000d-1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to Congressional committees; effective date of administrative action

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected

(1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or

(2) by any other means authorized by law:

Provided, however, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

Appendix VI: Executive order 13045

Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy.

1-101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive, and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features; and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves. Therefore, to the extent permitted by law and appropriate, and consistent with the agency's mission, each Federal agency:

(a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and (b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

1-102. Each independent regulatory agency is encouraged to participate in the implementation of this order and comply with its provisions.

Sec. 2. Definitions. The following definitions shall apply to this order.

2-201. "Federal agency" means any authority of the United States that is an agency under 44 U.S.C. 3502(1) other than those considered to be independent regulatory agencies under 44 U.S.C. 3502(5). For purposes of this order, "military departments," as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

2-202. "Covered regulatory action" means any substantive action in a rulemaking, initiated after the date of this order or for which a Notice of Proposed Rulemaking is published 1 year after the date of this order, that is likely to result in a rule that may:

(a) be "economically significant" under Executive Order 12866 (a rulemaking that has an annual effect on the economy of \$100 million or more or would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities); and

(b) concern an environmental health risk or safety risk that an agency has reason to believe may disproportionately affect children.

2-203. "Environmental health risks and safety risks" mean risks to health or to safety that are attributable to products or substances that the child is likely to come in contact with or ingest (such as the air we breathe, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).

Sec. 3. [Task Force on Environmental Health Risks and Safety Risks to Children](#).

3-301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children ("Task Force").

3-302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, the Council on Environmental Quality, and the Office of Management and Budget (OMB).

3-303. Membership. The Task Force shall be composed of the:

Secretary of Health and Human Services, who shall serve as a Co-Chair of the Council;

Administrator of the Environmental Protection Agency, who shall serve as a Co-Chair of the Council;

Secretary of Education;

Secretary of Labor;

Attorney General;

Secretary of Energy;

Secretary of Housing and Urban Development;

Secretary of Agriculture;

Secretary of Transportation;

Director of the Office of Management and Budget;

Chair of the Council on Environmental Quality;
Chair of the Consumer Product Safety Commission;
Assistant to the President for Economic Policy;
Assistant to the President for Domestic Policy;
Assistant to the President and Director of the Office of Science and Technology Policy;
Chair of the Council of Economic Advisers; and

Such other officials of executive departments and agencies as the President may, from time to time, designate.

Members of the Task Force may delegate their responsibilities under this order to subordinates.

3-304. Functions. The Task Force shall recommend to the President Federal strategies for children's environmental health and safety, within the limits of the Administration's budget, to include the following elements: statements of principles, general policy, and targeted annual priorities to guide the Federal approach to achieving the goals of this order;

a coordinated research agenda for the Federal Government, including steps to implement the review of research databases described in section 4 of this order;

recommendations for appropriate partnerships among Federal, State, local, and tribal governments and the private, academic, and nonprofit sectors;

proposals to enhance public outreach and communication to assist families in evaluating risks to children and in making informed consumer choices;

an identification of high-priority initiatives that the Federal Government has undertaken or will undertake in advancing protection of children's environmental health and safety; and

a statement regarding the desirability of new legislation to fulfill or promote the purposes of this order.

3-305. The Task Force shall prepare a biennial report on research, data, or other information that would enhance our ability to understand, analyze, and respond to environmental health risks and safety risks to children. For purposes of this report, cabinet agencies and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. The Task Force shall incorporate agency submissions into its report and ensure that this report is publicly available and widely disseminated. The Office of Science and Technology Policy and the National Science and Technology Council shall ensure that this report is fully considered in establishing research priorities.

3-306. The Task Force shall exist for a period of 4 years from the first meeting. At least 6 months prior to the expiration of that period, the member agencies shall assess the need for continuation of the Task Force or its functions, and make appropriate recommendations to the President.

Sec. 4. Research Coordination and Integration.

4-401. Within 6 months of the date of this order, the Task Force shall develop or direct to be developed a review of existing and planned data resources and a proposed plan for ensuring that researchers and Federal research agencies have access to information on all research conducted or funded by the Federal Government that is related to adverse health risks in children resulting from exposure to environmental health risks or safety risks. The National Science and Technology Council shall review the plan.

4-402. The plan shall promote the sharing of information on academic and private research. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all Federal agencies.

Sec. 5. Agency Environmental Health Risk or Safety Risk Regulations.

5-501. For each covered regulatory action submitted to OMB's Office of Information and Regulatory Affairs (OIRA) for review pursuant to Executive Order 12866, the issuing agency shall provide to OIRA the following information developed as part of the agency's decision making process, unless prohibited by law:

an evaluation of the environmental health or safety effects of the planned regulation on children; and

an explanation of why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

5-502. In emergency situations, or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall comply with the provisions of this section to the extent practicable. For those covered regulatory actions that are governed by a court-imposed or statutory deadline, the agency shall, to the extent practicable, schedule any rulemaking proceedings so as to permit sufficient time for completing the analysis required by this section.

5-503. The analysis required by this section may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

Sec. 6. Interagency Forum on Child and Family Statistics.

6-601. The Director of the OMB ("Director") shall convene an Interagency Forum on Child and Family Statistics ("Forum"), which will include representatives from the appropriate Federal statistics and research agencies. The Forum shall produce an annual compendium ("Report") of the most important indicators of the well-being of the Nation's children.

6-602. The Forum shall determine the indicators to be included in each Report and identify the sources of data to be used for each indicator. The Forum shall provide an ongoing review of Federal collection and dissemination of data on children and families, and shall make recommendations to improve the coverage and coordination of data collection and to reduce duplication and overlap.

6-603. The Report shall be published by the Forum in collaboration with the National Institute of Child Health and Human Development. The Forum shall present the first annual Report to the President, through the Director, by July 31, 1997. The Report shall be submitted annually thereafter, using the most recently available data.

Sec. 7. General Provisions.

7-701. This order is intended only for internal management of the executive branch. This order is not intended, and should not be construed to create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.

7-702. Executive Order 12606 of September 2, 1987 is revoked.

WILLIAM J. CLINTON

THE WHITE HOUSE,

April 21, 1997.

Appendix VII – Americans with Disabilities Act – Amendment Act

SEC. 1. SHORT TITLE

[42 USCA § 12101 note]

This Act may be cited as the “ADA Amendments Act of 2008”.

SEC. 2. FINDINGS AND PURPOSES

[42 USCA § 12101 note]

FINDINGS. – Congress finds that –

in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and provide broad coverage;

in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person’s right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

while Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the definition of a handicapped individual under the Rehabilitation Act of 1973, that expectation has not been fulfilled;

the holdings of the Supreme Court in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999) and its companion cases have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect;

the holding of the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002) further narrowed the broad scope of protection intended to be afforded by the ADA;

(6) as a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities;

in particular, the Supreme Court, in the case of *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002), interpreted the term “substantially limits” to require a greater degree of limitation than was intended by Congress; and

Congress finds that the current Equal Employment Opportunity Commission ADA regulations defining the term “substantially limits” as “significantly restricted” are inconsistent with congressional intent, by expressing too high a standard.

PURPOSES. – The purposes of this Act are—

to carry out the ADA’s objectives of providing “a clear and comprehensive national mandate for the elimination of discrimination” and “clear, strong, consistent, enforceable standards addressing discrimination” by reinstating a broad scope of protection to be available under the ADA;

to reject the requirement enunciated by the Supreme Court in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999) and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to the ameliorative effects of mitigating measures;

to reject the Supreme Court’s reasoning in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the Supreme Court in *School Board of Nassau County v. Arline*, 480 U.S. 273 (1987) which set forth a broad view of the third prong of the definition of handicap under the Rehabilitation Act of 1973;

to reject the standards enunciated by the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002), that the terms “substantially” and “major” in the definition of disability under the ADA “need to be interpreted strictly to create a demanding standard for qualifying as disabled,” and that to be substantially limited in performing a major life activity under the ADA “an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people’s daily lives”;

to convey congressional intent that the standard created by the Supreme Court in the case of *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002) for “substantially limits”, and applied by lower courts in numerous decisions, has created an inappropriately high level of limitation necessary to obtain coverage

under the ADA, to convey that it is the intent of Congress that the primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations, and to convey that the question of whether an individual's impairment is a disability under the ADA should not demand extensive analysis; and

to express Congress' expectation that the Equal Employment Opportunity Commission will revise that portion of its current regulations that defines the term "substantially limits" as "significantly restricted" to be consistent with this Act, including the amendments made by this Act.

SEC. 3. CODIFIED FINDINGS.

Section 2(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101) is amended—

by amending paragraph (1) to read as follows: "(1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;";

by striking paragraph (7); and

by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

SEC. 4. DISABILITY DEFINED AND RULES OF CONSTRUCTION.

DEFINITION OF DISABILITY.—Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102) is amended to read as follows:

"SEC. 3. DEFINITION OF DISABILITY.

"As used in this Act:

"(1) DISABILITY.—The term 'disability' means, with respect to an individual—

"(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

"(B) a record of such an impairment; or

"(C) being regarded as having such an impairment (as described in paragraph (3)).

"(2) MAJOR LIFE ACTIVITIES.—

"(A) IN GENERAL.—For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

"(B) MAJOR BODILY FUNCTIONS.—For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

"(3) REGARDED AS HAVING SUCH AN IMPAIRMENT.—For purposes of paragraph (1)(C):

"(A) An individual meets the requirement of 'being regarded as having such an impairment' if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

"(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

"(4) RULES OF CONSTRUCTION REGARDING THE DEFINITION OF DISABILITY.—The definition of 'disability' in paragraph (1) shall be construed in accordance with the following:

"(A) The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act.

"(B) The term 'substantially limits' shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

"(C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

"(D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

"(E)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—

"(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

“(II) use of assistive technology;

“(III) reasonable accommodations or auxiliary aids or services; or

“(IV) learned behavioral or adaptive neurological modifications.

“(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

“(iii) As used in this subparagraph—

“(I) the term ‘ordinary eyeglasses or contact lenses’ means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

“(II) the term ‘low-vision devices’ means devices that magnify, enhance, or otherwise augment a visual image.”.

CONFORMING AMENDMENT.—The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is further amended by adding after section 3 the following:

“SEC. 4. ADDITIONAL DEFINITIONS.

“As used in this Act:

“(1) AUXILIARY AIDS AND SERVICES.—The term ‘auxiliary aids and services’ includes—

“(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

“(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

“(C) acquisition or modification of equipment or devices; and

“(D) other similar services and actions.

“(2) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.”

AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents contained in section 1(b) of the Americans with Disabilities Act of 1990 is amended by striking the item relating to section 3 and inserting the following items:

“Sec. 3. Definition of disability.

“Sec. 4. Additional definitions.”.

SEC. 5. DISCRIMINATION ON THE BASIS OF DISABILITY.

ON THE BASIS OF DISABILITY.—Section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112) is amended—

in subsection (a), by striking “with a disability because of the disability of such individual” and inserting “on the basis of disability”; and

in subsection (b) in the matter preceding paragraph (1), by striking “discriminate” and inserting “discriminate against a qualified individual on the basis of disability”.

QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Section 103 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12113) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and inserting after subsection (b) the following new subsection:

“(c) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.— Notwithstanding section 3(4)(E)(ii), a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual’s uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity.”

CONFORMING AMENDMENTS.—

Section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)) is amended—

in the paragraph heading, by striking “WITH A DISABILITY”; and

by striking “with a disability” after “individual” both places it appears.

Section 104(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12114(a)) is amended by striking “the term ‘qualified individual with a disability’ shall” and inserting “a qualified individual with a disability shall”.

SEC. 6. RULES OF CONSTRUCTION.

Title V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201 et seq.) is amended—

by adding at the end of section 501 the following:

“(e) BENEFITS UNDER STATE WORKER’S COMPENSATION LAWS.—Nothing in this Act alters the standards for determining eligibility for benefits under State worker’s compensation laws or under State and Federal disability benefit programs.

“(f) FUNDAMENTAL ALTERATION.—Nothing in this Act alters the provision of section 302(b)(2)(A)(ii), specifying that reasonable modifications in policies, practices, or procedures shall be required, unless an entity can demonstrate that making such modifications in policies, practices, or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations involved.

“(g) CLAIMS OF NO DISABILITY.—Nothing in this Act shall provide the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual’s lack of disability.

“(h) REASONABLE ACCOMMODATIONS AND MODIFICATIONS.—A covered entity under title I, a public entity under title II, and any person who owns, leases (or leases to), or operates a place of public accommodation under title III, need not provide a reasonable accommodation or a reasonable modification to policies, practices, or procedures to an individual who meets the definition of disability in section 3(1) solely under subparagraph (C) of such section.”;

by redesignating section 506 through 514 as sections 507 through 515, respectively, and adding after section 505 the following:

“SEC. 506. RULE OF CONSTRUCTION REGARDING REGULATORY AUTHORITY.

“The authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation under this Act includes the authority to issue regulations implementing the definitions of disability in section 3 (including rules of construction) and the definitions in section 4, consistent with the ADA Amendments Act of 2008.”; and

in section 511 (as redesignated by paragraph (2)) (42 U.S.C. 12211), in subsection (c), by striking “511(b)(3)” and inserting “512(b)(3)”.

The table of contents contained in section 1(b) of the Americans with Disabilities Act of 1990 is amended by redesignating the items relating to sections 506 through 514 as the items relating to sections 507 through 515, respectively, and by inserting after the item relating to section 505 the following new item:

“Sec. 506. Rule of construction regarding regulatory authority.”

SEC. 7. CONFORMING AMENDMENTS.

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

in paragraph (9)(B), by striking “a physical” and all that follows through “major life activities”, and inserting “the meaning given it in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)”; and

in paragraph (20)(B), by striking “any person who” and all that follows through the period at the end, and inserting “any person who has a disability as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).”.

Appendix VIII: Age Discrimination Act

The Age Discrimination in Employment Act of 1967

EDITOR'S NOTE: The following is the text of the Age Discrimination in Employment Act of 1967 (Pub. L. 90-202) (ADEA), as amended, as it appears in volume 29 of the United States Code, beginning at section 621. The ADEA prohibits employment discrimination against persons 40 years of age or older. The Older Workers Benefit Protection Act (Pub. L. 101-433) amended several sections of the ADEA. In addition, section 115 of the Civil Rights Act of 1991 (P.L. 102-166) amended section 7(e) of the ADEA (29 U. S.C. 626(e)). Cross references to the ADEA as enacted appear in italics following each section heading. Editor's notes also appear in italics.

An Act

To prohibit age discrimination in employment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Age Discrimination in Employment Act of 1967."

* * *

CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSE

SEC. 621. [Section 2]

(a) The Congress hereby finds and declares that-

(1) in the face of rising productivity and affluence, older workers find themselves disadvantaged in their efforts to retain employment, and especially to regain employment when displaced from jobs;

(2) the setting of arbitrary age limits regardless of potential for job performance has become a common practice, and certain otherwise desirable practices may work to the disadvantage of older persons;

(3) the incidence of unemployment, especially long-term unemployment with resultant deterioration of skill, morale, and employer acceptability is, relative to the younger ages, high among older workers; their numbers are great and growing; and their employment problems grave;

(4) the existence in industries affecting commerce, of arbitrary discrimination in employment because of age, burdens commerce and the free flow of goods in commerce.

(b) It is therefore the purpose of this chapter to promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employment; to help employers and workers find ways of meeting problems arising from the impact of age on employment.

EDUCATION AND RESEARCH PROGRAM; RECOMMENDATION TO CONGRESS

SEC. 622. [Section 3]

(a) The EEOC [originally, the Secretary of Labor] shall undertake studies and provide information to labor unions, management, and the general public concerning the needs and abilities of older workers, and their potentials for continued employment and contribution to the economy. In order to achieve the purposes of this chapter, the EEOC [originally, the Secretary of Labor] shall carry on a continuing program of education and information, under which he may, among other measures-

(1) undertake research, and promote research, with a view to reducing barriers to the employment of older persons, and the promotion of measures for utilizing their skills;

(2) publish and otherwise make available to employers, professional societies, the various media of communication, and other interested persons the findings of studies and other materials for the promotion of employment;

(3) foster through the public employment service system and through cooperative effort the development of facilities of public and private agencies for expanding the opportunities and potentials of older persons;

(4) sponsor and assist State and community informational and educational programs.

(b) Not later than six months after the effective date of this chapter, the Secretary shall recommend to the Congress any measures he may deem desirable to change the lower or upper age limits set forth in section 631 of this title [section 12].

PROHIBITION OF AGE DISCRIMINATION

SEC. 623. [Section 4]

(a) Employer practices

It shall be unlawful for an employer-

(1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age; or

(3) to reduce the wage rate of any employee in order to comply with this chapter.

(b) It shall be unlawful for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of such individual's age, or to classify or refer for employment any individual on the basis of such individual's age.

(c) Labor organization practices

It shall be unlawful for a labor organization-

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his age;

(2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's age;

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) Opposition to unlawful practices; participation in investigations, proceedings, or litigation

It shall be unlawful for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because such individual, member or applicant for membership has opposed any practice made unlawful by this

section, or because such individual, member or applicant for membership has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this chapter.

(e) Printing or publication of notice or advertisement indicating preference, limitation, etc.

It shall be unlawful for an employer, labor organization, or employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on age.

(f) Lawful practices; age an occupational qualification; other reasonable factors; laws of foreign workplace; seniority system; employee benefit plans; discharge or discipline for good cause

It shall not be unlawful for an employer, employment agency, or labor organization—

(1) to take any action otherwise prohibited under subsections (a), (b), (c), or (e) of this section where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age, or where such practices involve an employee in a workplace in a foreign country, and compliance with such subsections would cause such employer, or a corporation controlled by such employer, to violate the laws of the country in which such workplace is located;

(2) to take any action otherwise prohibited under subsection (a), (b), (c), or (e) of this section—

(A) to observe the terms of a bona fide seniority system that is not intended to evade the purposes of this chapter, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by section 631(a) of this title because of the age of such individual; or

(B) to observe the terms of a bona fide employee benefit plan—

(i) where, for each benefit or benefit package, the actual amount of payment made or cost incurred on behalf of an older worker is no less than that made or incurred on behalf of a younger worker, as permissible under section 1625.10, title 29, Code of Federal Regulations (as in effect on June 22, 1989); or

(ii) that is a voluntary early retirement incentive plan consistent with the relevant purpose or purposes of this chapter.

Notwithstanding clause (i) or (ii) of subparagraph (B), no such employee benefit plan or voluntary early retirement incentive plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 631(a) of this title, because of the age of such individual. An employer, employment agency, or labor organization acting under subparagraph (A), or under clause (i) or (ii) of subparagraph (B), shall have the burden of proving that such actions are lawful in any civil enforcement proceeding brought under this chapter; or

(3) to discharge or otherwise discipline an individual for good cause.

(g) [Repealed]

(h) Practices of foreign corporations controlled by American employers; foreign employers not controlled by American employers; factors determining control

(1) If an employer controls a corporation whose place of incorporation is in a foreign country, any practice by such corporation prohibited under this section shall be presumed to be such practice by such employer.

(2) The prohibitions of this section shall not apply where the employer is a foreign person not controlled by an American employer.

(3) For the purpose of this subsection the determination of whether an employer controls a corporation shall be based upon the-

(A) interrelation of operations,

(B) common management,

(C) centralized control of labor relations, and

(D) common ownership or financial control,

of the employer and the corporation.

(i) Employee pension benefit plans; cessation or reduction of benefit accrual or of allocation to employee account; distribution of benefits after attainment of normal retirement age; compliance; highly compensated employees

(1) Except as otherwise provided in this subsection, it shall be unlawful for an employer, an employment agency, a labor organization, or any combination thereof to establish or maintain an employee pension benefit plan which requires or permits—

(A) in the case of a defined benefit plan, the cessation of an employee's benefit accrual, or the reduction of the rate of an employee's benefit accrual, because of age, or

(B) in the case of a defined contribution plan, the cessation of allocations to an employee's account, or the reduction of the rate at which amounts are allocated to an employee's account, because of age.

(2) Nothing in this section shall be construed to prohibit an employer, employment agency, or labor organization from observing any provision of an employee pension benefit plan to the extent that such provision imposes (without regard to age) a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

(3) In the case of any employee who, as of the end of any plan year under a defined benefit plan, has attained normal retirement age under such plan—

(A) if distribution of benefits under such plan with respect to such employee has commenced as of the end of such plan year, then any requirement of this subsection for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of the actuarial equivalent of in-service distribution of benefits, and

(B) if distribution of benefits under such plan with respect to such employee has not commenced as of the end of such year in accordance with section 1056(a)(3) of this title [section 206(a)(3) of the Employee Retirement Income Security Act of 1974] and section 401(a)(14)(C) of Title 26 [the Internal Revenue Code of 1986], and the payment of benefits under such plan with respect to such employee is not suspended during such plan year pursuant to section 1053(a)(3)(B) of this title or section 411(a)(3)(B) of Title 26 [the Internal Revenue Code of 1986], then any requirement of this subsection for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of any adjustment in the benefit payable under the plan during such

plan year attributable to the delay in the distribution of benefits after the attainment of normal retirement age.

The provisions of this paragraph shall apply in accordance with regulations of the Secretary of the Treasury. Such regulations shall provide for the application of the preceding provisions of this paragraph to all employee pension benefit plans subject to this subsection and may provide for the application of such provisions, in the case of any such employee, with respect to any period of time within a plan year.

(4) Compliance with the requirements of this subsection with respect to an employee pension benefit plan shall constitute compliance with the requirements of this section relating to benefit accrual under such plan.

(5) Paragraph (1) shall not apply with respect to any employee who is a highly compensated employee (within the meaning of section 414(q) of Title 26 [the Internal Revenue Code of 1986]) to the extent provided in regulations prescribed by the Secretary of the Treasury for purposes of precluding discrimination in favor of highly compensated employees within the meaning of subchapter D of chapter 1 of Title 26 [the Internal Revenue Code of 1986].

(6) A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the subsidized portion of any early retirement benefit is disregarded in determining benefit accruals or it is a plan permitted by subsection (m) of this section.

(7) Any regulations prescribed by the Secretary of the Treasury pursuant to clause (v) of section 411(b)(1)(H) of Title 26 [the Internal Revenue Code of 1986] and subparagraphs (C) and (D), of section 411(b)(2) of Title 26 [the Internal Revenue Code of 1986] shall apply with respect to the requirements of this subsection in the same manner and to the same extent as such regulations apply with respect to the requirements of such sections 411(b)(1)(H) and 411(b)(2).

(8) A plan shall not be treated as failing to meet the requirements of this section solely because such plan provides a normal retirement age described in section 1002(24)(B) [section 2(24)(B) of the Employee Retirement Income Security Act of 1974] of this title and section 411(a)(8)(B) of Title 26 [the Internal Revenue Code of 1986].

(9) For purposes of this subsection-

(A) The terms “employee pension benefit plan”, “defined benefit plan”, “defined contribution plan”, and “normal retirement age” have the meanings provided such terms in section 1002 of this title [section 3 of the Employee Retirement Income Security Act of 1974].

(B) The term “compensation” has the meaning provided by section 414(s) of Title 26 [the Internal Revenue Code of 1986].

(10) Special rules relating to age

(A) Comparison to similarly situated younger individual

(i) In general—A plan shall not be treated as failing to meet the requirements of paragraph (1) if a participant’s accrued benefit, as determined as of any date under the terms of the plan, would be equal to or greater than that of any similarly situated, younger individual who is or could be a participant.

(ii) Similarly situated—For purposes of this subparagraph, a participant is similarly situated to any other individual if such participant is identical to such other individual in every respect (including period of service, compensation, position, date of hire, work history, and any other respect) except for age.

(iii) Disregard of subsidized early retirement benefits—In determining the accrued benefit as of any date for purposes of this clause, the subsidized portion of any early retirement benefit or retirement-type subsidy shall be disregarded.

(iv) Accrued benefit—For purposes of this subparagraph, the accrued benefit may, under the terms of the plan, be expressed as an annuity payable at normal retirement age, the balance of a hypothetical account, or the current value of the accumulated percentage of the employee's final average compensation.

(B) Applicable defined benefit plans

(i) Interest credits

- (I) In general—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1) unless the terms of the plan provide that any interest credit (or an equivalent amount) for any plan year shall be at a rate which is not greater than a market rate of return. A plan shall not be treated as failing to meet the requirements of this subclause merely because the plan provides for a reasonable minimum guaranteed rate of return or for a rate of return that is equal to the greater of a fixed or variable rate of return
- (II) Preservation of capital—An interest credit (or an equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.
- (III) Market rate of return—The Secretary of the Treasury may provide by regulation for rules governing the calculation of a market rate of return for purposes of subclause (I) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of subclause (I). In the case of a governmental plan (as defined in the first sentence of section 414(d) of Title 26 [the Internal Revenue Code of 1986], a rate of return or a method of crediting interest established pursuant to any provision of Federal, State, or local law (including any administrative rule or policy adopted in accordance with any such law) shall be treated as a market rate of return for purposes of subclause (I) and a permissible method of crediting interest for purposes of meeting the requirements of subclause (I), except that this sentence shall only apply to a rate of return or method of crediting interest if such rate or method does not violate any other requirement of this chapter.
- (ii) Special rule for plan conversions—If, after June 29, 2005, an applicable plan amendment is adopted, the plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the requirements of clause (iii) are met with respect to each individual who was a participant in the plan immediately before the adoption of the amendment.

(iii) Rate of benefit accrual—Subject to clause (iv), the requirements of this clause are met with respect to any participant if the accrued benefit of the participant under the terms of the plan as in effect after the amendment is not less than the sum of—

(I) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

(II) the participant's accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

(iv) Special rules for early retirement subsidies—For purposes of clause (iii)(I), the plan shall credit the accumulation account or similar amount with the amount of any early retirement benefit or retirement-type subsidy for the plan year in which the participant retires if, as of such time, the participant has met

the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

(v) Applicable plan amendment—For purposes of this subparagraph—

(I) In general—The term “applicable plan amendment” means an amendment to a defined benefit plan which has the effect of converting the plan to an applicable defined benefit plan.

(II) Special rule for coordinated benefits—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in subclause (I), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

(III) Multiple amendments—The Secretary of the Treasury shall issue regulations to prevent the avoidance of the purposes of this subparagraph through the use of 2 or more plan amendments rather than a single amendment.

(IV) Applicable defined benefit plan—For purposes of this subparagraph, the term “applicable defined benefit plan” has the meaning given such term by section 1053(f)(3) of this title [section 203(f)(3) of the Employee Retirement Income Security Act of 1974].

(vi) Termination requirements—An applicable defined benefit plan shall not be treated as meeting the requirements of clause (i) unless the plan provides that, upon the termination of the plan—

(I) if the interest credit rate (or an equivalent amount) under the plan is a variable rate, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date, and

(II) the interest rate and mortality table used to determine the amount of any benefit under the plan payable in the form of an annuity payable at normal retirement age shall be the rate and table specified under the plan for such purpose as of the termination date, except that if such interest rate is a variable rate, the interest rate shall be determined under the rules of subclause (I).

(C) Certain offsets permitted—A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the plan provides offsets against benefits under the plan to the extent such offsets are allowable in applying the requirements of section 401(a) of Title 26 [the Internal Revenue Code of 1986].

(D) Permitted disparities in plan contributions or benefits—A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) of Title 26 [the Internal Revenue Code of 1986] are met.

(E) Indexing permitted—

(i) In general—A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the plan provides for indexing of accrued benefits under the plan.

(ii) Protection against loss—Except in the case of any benefit provided in the form of a variable annuity, clause (i) shall not apply with respect to any indexing which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

(iii) Indexing—For purposes of this subparagraph, the term “indexing” means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.

(F) Early retirement benefit or retirement-type subsidy—For purposes of this paragraph, the terms “early retirement benefit” and “retirement-type subsidy” have the meaning given such terms in section 1053(g)(2)(A) of this title [section 203(g)(2)(A) of the Employee Retirement Income Security Act of 1974].

(G) Benefit accrued to date—For purposes of this paragraph, any reference to the accrued benefit shall be a reference to such benefit accrued to date.

(j) Employment as firefighter or law enforcement officer

It shall not be unlawful for an employer which is a State, a political subdivision of a State, an agency or instrumentality of a State or a political subdivision of a State, or an interstate agency to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken-

(1) with respect to the employment of an individual as a firefighter or as a law enforcement officer, the employer has complied with section 3(d)(2) of the Age Discrimination in Employment Amendments of 1996 if the individual was discharged after the date described in such section, and the individual has attained-

(A) the age of hiring or retirement, respectively, in effect under applicable State or local law on March 3, 1983; or

(B) (i) if the individual was not hired, the age of hiring in effect on the date of such failure or refusal to hire under applicable State or local law enacted after September 30, 1996; or

(ii) if applicable State or local law was enacted after September 30, 1996, and the individual was discharged, the higher of-

(I) the age of retirement in effect on the date of such discharge under such law; and

(II) age 55; and

(2) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purposes of this chapter.

(k) Seniority system or employee benefit plan; compliance

A seniority system or employee benefit plan shall comply with this chapter regardless of the date of adoption of such system or plan.

(l) Lawful practices; minimum age as condition of eligibility for retirement benefits; deductions from severance pay; reduction of long-term disability benefits

Notwithstanding clause (i) or (ii) of subsection (f)(2)(B) of this section-

(1) (A) It shall not be a violation of subsection (a), (b), (c), or (e) of this section solely because-

(i) an employee pension benefit plan (as defined in section 1002(2) of this title [section 2(2) of the Employee Retirement Income Security Act of 1974]) provides for the attainment of a minimum age as a condition of eligibility for normal or early retirement benefits; or

(ii) a defined benefit plan (as defined in section 1002(35) of this title [section 2(35) of the Employee Retirement Income Security Act]) provides for-

(I) payments that constitute the subsidized portion of an early retirement benefit; or

(II) social security supplements for plan participants that commence before the age and terminate at the age (specified by the plan) when participants are eligible to receive reduced or unreduced old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), and that do not exceed such old-age insurance benefits.

(B) A voluntary early retirement incentive plan that—

(i) is maintained by—

(I) a local educational agency (as defined in section 7801 of Title 20 [the Elementary and Secondary Education Act of 1965]), or

(II) an education association which principally represents employees of 1 or more agencies described in subclause (I) and which is described in section 501(c) (5) or (6) of Title 26 [the Internal Revenue Code of 1986] and exempt from taxation under section 501(a) of Title 26 [the Internal Revenue Code of 1986], and

(ii) makes payments or supplements described in subclauses (I) and (II) of subparagraph (A)(ii) in coordination with a defined benefit plan (as so defined) maintained by an eligible employer described in section 457(e)(1) (A) of Title 26 [the Internal Revenue Code of 1986] or by an education association described in clause (i)(II),

shall be treated solely for purposes of subparagraph (A)(ii) as if it were a part of the defined benefit plan with respect to such payments or supplements. Payments or supplements under such a voluntary early retirement incentive plan shall not constitute severance pay for purposes of paragraph (2).

(2) (A) It shall not be a violation of subsection (a), (b), (c), or (e) of this section solely because following a contingent event unrelated to age—

(i) the value of any retiree health benefits received by an individual eligible for an immediate pension;

(ii) the value of any additional pension benefits that are made available solely as a result of the contingent event unrelated to age and following which the individual is eligible for not less than an immediate and unreduced pension; or

(iii) the values described in both clauses (i) and (ii); are deducted from severance pay made available as a result of the contingent event unrelated to age.

(B) For an individual who receives immediate pension benefits that are actuarially reduced under subparagraph (A)(i), the amount of the deduction available pursuant to subparagraph (A)(i) shall be reduced by the same percentage as the reduction in the pension benefits.

(C) For purposes of this paragraph, severance pay shall include that portion of supplemental unemployment compensation benefits (as described in section 501(c)(17) of Title 26 [the Internal Revenue Code of 1986]) that-

(i) constitutes additional benefits of up to 52 weeks;

(ii) has the primary purpose and effect of continuing benefits until an individual becomes eligible for an immediate and unreduced pension; and

(iii) is discontinued once the individual becomes eligible for an immediate and unreduced pension.

(D) For purposes of this paragraph and solely in order to make the deduction authorized under this paragraph, the term “retiree health benefits” means benefits provided pursuant to a group health plan covering retirees, for which (determined as of the contingent event unrelated to age)—

(i) the package of benefits provided by the employer for the retirees who are below age 65 is at least comparable to benefits provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(ii) the package of benefits provided by the employer for the retirees who are age 65 and above is at least comparable to that offered under a plan that provides a benefit package with one-fourth the value of benefits provided under title XVIII of such Act; or

(iii) the package of benefits provided by the employer is as described in clauses (i) and (ii).

(E) (i) If the obligation of the employer to provide retiree health benefits is of limited duration, the value for each individual shall be calculated at a rate of \$3,000 per year for benefit years before age 65, and \$750 per year for benefit years beginning at age 65 and above.

(ii) If the obligation of the employer to provide retiree health benefits is of unlimited duration, the value for each individual shall be calculated at a rate of \$48,000 for individuals below age 65, and \$24,000 for individuals age 65 and above.

(iii) The values described in clauses (i) and (ii) shall be calculated based on the age of the individual as of the date of the contingent event unrelated to age. The values are effective on October 16, 1990, and shall be adjusted on an annual basis, with respect to a contingent event that occurs subsequent to the first year after October 16, 1990, based on the medical component of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(iv) If an individual is required to pay a premium for retiree health benefits, the value calculated pursuant to this subparagraph shall be reduced by whatever percentage of the overall premium the individual is required to pay.

(F) If an employer that has implemented a deduction pursuant to subparagraph (A) fails to fulfill the obligation described in subparagraph (E), any aggrieved individual may bring an action for specific

performance of the obligation described in subparagraph (E). The relief shall be in addition to any other remedies provided under Federal or State law.

(3) It shall not be a violation of subsection (a), (b), (c), or (e) of this section solely because an employer provides a bona fide employee benefit plan or plans under which long-term disability benefits received by an individual are reduced by any pension benefits (other than those attributable to employee contributions)—

(A) paid to the individual that the individual voluntarily elects to receive; or

(B) for which an individual who has attained the later of age 62 or normal retirement age is eligible.

(m) Voluntary retirement incentive plans

Notwithstanding subsection (f)(2)(b) of this section, it shall not be a violation of subsection (a), (b), (c), or (e) of this section solely because a plan of an institution of higher education (as defined in section 1001 of Title 20 [the Higher Education Act of 1965]) offers employees who are serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) supplemental benefits upon voluntary retirement that are reduced or eliminated on the basis of age, if—

(1) such institution does not implement with respect to such employees any age-based reduction or cessation of benefits that are not such supplemental benefits, except as permitted by other provisions of this chapter;

(2) such supplemental benefits are in addition to any retirement or severance benefits which have been offered generally to employees serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure), independent of any early retirement or exit-incentive plan, within the preceding 365 days; and

(3) any employee who attains the minimum age and satisfies all non-age-based conditions for receiving a benefit under the plan has an opportunity lasting not less than 180 days to elect to retire and to receive the maximum benefit that could then be elected by a younger but otherwise similarly situated employee, and the plan does not require retirement to occur sooner than 180 days after such election.

STUDY BY SECRETARY OF LABOR; REPORTS TO PRESIDENT AND CONGRESS; SCOPE OF STUDY; IMPLEMENTATION OF STUDY; TRANSMITTAL DATE OF REPORTS

SEC. 624. [Section 5]

(a) (1) The EEOC [originally, the Secretary of Labor] is directed to undertake an appropriate study of institutional and other arrangements giving rise to involuntary retirement, and report his findings and any appropriate legislative recommendations to the President and to the Congress. Such study shall include—

(A) an examination of the effect of the amendment made by section 3(a) of the Age Discrimination in Employment Act Amendments of 1978 in raising the upper age limitation established by section 631(a) of this title [section 1(a)] to 70 years of age;

(B) a determination of the feasibility of eliminating such limitation;

(C) a determination of the feasibility of raising such limitation above 70 years of age; and

(D) an examination of the effect of the exemption contained in section 631(c) of this title [section 1(c)], relating to certain executive employees, and the exemption contained in section 631(d) of this title [section 1(d)], relating to tenured teaching personnel.

(2) The EEOC [originally, the Secretary of Labor] may undertake the study required by paragraph (1) of this subsection directly or by contract or other arrangement.

(b) The report required by subsection (a) of this section shall be transmitted to the President and to the Congress as an interim report not later than January 1, 1981, and in final form not later than January 1, 1982.

Transfer of Functions [All functions relating to age discrimination administration and enforcement vested by Section 6 in the Secretary of Labor or the Civil Service Commission were transferred to the

Equal Employment Opportunity Commission effective January 1, 1979 under the President's Reorganization Plan No. 1.]

ADMINISTRATION

SEC. 625. [Section 6]

The EEOC [originally, the Secretary of Labor] shall have the power-

- (a) Delegation of functions; appointment of personnel; technical assistance to make delegations, to appoint such agents and employees, and to pay for technical assistance on a fee for service basis, as he deems necessary to assist him in the performance of his functions under this chapter;
- (b) Cooperation with other agencies, employers, labor organizations, and employment agencies to cooperate with regional, State, local, and other agencies, and to cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this chapter.

RECORDKEEPING, INVESTIGATION, AND ENFORCEMENT

SEC. 626. [Section 7]

(a) Attendance of witnesses; investigations, inspections, records, and homework regulations

The Equal Employment Opportunity Commission shall have the power to make investigations and require the keeping of records necessary or appropriate for the administration of this chapter in accordance with the powers and procedures provided in sections 209 and 211 of this title [sections 9 and 11 of the Fair Labor Standards Act of 1938, as amended].

(b) Enforcement; prohibition of age discrimination under fair labor standards; unpaid minimum wages and unpaid overtime compensation; liquidated damages; judicial relief; conciliation, conference, and persuasion

The provisions of this chapter shall be enforced in accordance with the powers, remedies, and procedures provided in sections 211(b), 216 (except for subsection (a) thereof), and 217 of this title [sections 11(b), 16 (except for subsection (a) thereof), and 17 of the Fair Labor Standards Act of 1938, as amended], and subsection (c) of this section. Any act prohibited under section 623 of this title [section 4] shall be deemed to be a prohibited act under section 215 of this title [section 15 of the Fair Labor Standards Act of 1938, as amended]. Amounts owing to a person as a result of a violation of this chapter shall be deemed to be unpaid minimum wages or unpaid overtime compensation for purposes of sections 216 and 217 of this title [sections 16 and 17 of the Fair Labor Standards Act of 1938, as amended]: Provided, That liquidated damages shall be payable only in cases of willful violations of this chapter. In any action brought to enforce this chapter the court shall have jurisdiction to grant such legal or equitable relief as may be appropriate to effectuate the purposes of this chapter, including without limitation judgments compelling employment, reinstatement or promotion, or enforcing the liability for amounts deemed to be unpaid minimum wages or unpaid overtime compensation under this section. Before instituting any action under this section, the Equal Employment Opportunity Commission shall attempt to eliminate the discriminatory practice or practices alleged, and to effect voluntary compliance with the requirements of this chapter through informal methods of conciliation, conference, and persuasion.

(c) Civil actions; persons aggrieved; jurisdiction; judicial relief; termination of individual action upon commencement of action by Commission; jury trial

(1) Any person aggrieved may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this chapter: Provided, That the right of any person to bring such action shall terminate upon the commencement of an action by the Equal Employment Opportunity Commission to enforce the right of such employee under this chapter.

(2) In an action brought under paragraph (1), a person shall be entitled to a trial by jury of any issue of fact in any such action for recovery of amounts owing as a result of a violation of this chapter, regardless of whether equitable relief is sought by any party in such action.

(d)(1) Filing of charge with Commission; timeliness; conciliation, conference, and persuasion
No civil action may be commenced by an individual under this section until 60 days after a charge alleging unlawful discrimination has been filed with the Equal Employment Opportunity Commission. Such a charge shall be filed-

(A) within 180 days after the alleged unlawful practice occurred; or

(B) in a case to which section 633(b) of this title applies, within 300 days after the alleged unlawful practice occurred, or within 30 days after receipt by the individual of notice of termination of proceedings under State law, whichever is earlier.

(2) Upon receiving such a charge, the Commission shall promptly notify all persons named in such charge as prospective defendants in the action and shall promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion.

(3) For purposes of this section, an unlawful practice occurs, with respect to discrimination in compensation in violation of this Act, when a discriminatory compensation decision or other practice is adopted, when a person becomes subject to a discriminatory compensation decision or other practice, or when a person is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.

(e) Reliance on administrative rulings; notice of dismissal or termination; civil action after receipt of notice

Section 259 of this title [section 10 of the Portal to Portal Act of 1947] shall apply to actions under this chapter. If a charge filed with the Commission under this chapter is dismissed or the proceedings of the Commission are otherwise terminated by the Commission, the Commission shall notify the person aggrieved. A civil action may be brought under this section by a person defined in section 630(a) of this title [section 11(a)] against the respondent named in the charge within 90 days after the date of the receipt of such notice.—

(f) Waiver

(1) An individual may not waive any right or claim under this chapter unless the waiver is knowing and voluntary. Except as provided in paragraph (2), a waiver may not be considered knowing and voluntary unless at a minimum—

(A) the waiver is part of an agreement between the individual and the employer that is written in a manner calculated to be understood by such individual, or by the average individual eligible to participate;

(B) the waiver specifically refers to rights or claims arising under this chapter;

(C) the individual does not waive rights or claims that may arise after the date the waiver is executed;

(D) the individual waives rights or claims only in exchange for consideration in addition to anything of value to which the individual already is entitled;

(E) the individual is advised in writing to consult with an attorney prior to executing the agreement;

(F) (i) the individual is given a period of at least 21 days within which to consider the agreement; or

(ii) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the individual is given a period of at least 45 days within which to consider the agreement;

(G) the agreement provides that for a period of at least 7 days following the execution of such agreement, the individual may revoke the agreement, and the agreement shall not become effective or enforceable until the revocation period has expired;

(H) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the employer (at the commencement of the period specified in subparagraph (F)) informs the individual in writing in a manner calculated to be understood by the average individual eligible to participate, as to—

(i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such program; and

(ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same job classification or organizational unit who are not eligible or selected for the program.

(2) A waiver in settlement of a charge filed with the Equal Employment Opportunity Commission, or an action filed in court by the individual or the individual's representative, alleging age discrimination of a kind prohibited under section 623 or 633a of this title [section 4 or 15] may not be considered knowing and voluntary unless at a minimum—

(A) subparagraphs (A) through (E) of paragraph (1) have been met; and

(B) the individual is given a reasonable period of time within which to consider the settlement agreement.

(3) In any dispute that may arise over whether any of the requirements, conditions, and circumstances set forth in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H) of paragraph (1), or subparagraph (A) or (B) of paragraph (2), have been met, the party asserting the validity of a waiver shall have the burden of proving in a court of competent jurisdiction that a waiver was knowing and voluntary pursuant to paragraph (1) or (2).

(4) No waiver agreement may affect the Commission's rights and responsibilities to enforce this chapter. No waiver may be used to justify interfering with the protected right of an employee to file a charge or participate in an investigation or proceeding conducted by the Commission.

NOTICES TO BE POSTED

SEC. 627. [Section 8]

Every employer, employment agency, and labor organization shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the Equal Employment Opportunity Commission setting forth information as the Commission deems appropriate to effectuate the purposes of this chapter.

RULES AND REGULATIONS

SEC. 628. [Section 9]

In accordance with the provisions of subchapter II of chapter 5 of title 5 [Administrative Procedures Act, 5 U.S.C. § 551 et seq.], the Equal Employment Opportunity Commission may issue such rules and regulations as it may consider necessary or appropriate for carrying out this chapter, and may establish such reasonable exemptions to and from any or all provisions of this chapter as it may find necessary and proper in the public interest.

CRIMINAL PENALTIES

SEC. 629. [Section 10]

Whoever shall forcibly resist, oppose, impede, intimidate or interfere with a duly authorized representative of the Equal Employment Opportunity Commission while it is engaged in the performance of duties under this chapter shall be punished by a fine of not more than \$500 or by imprisonment for not more than one year, or by both: Provided, however, That no person shall be imprisoned under this section except when there has been a prior conviction hereunder.

DEFINITIONS

SEC. 630. [Section 11]

For the purposes of this chapter-

- (a) The term “person” means one or more individuals, partnerships, associations, labor organizations, corporations, business trusts, legal representatives, or any organized groups of persons.
- (b) The term “employer” means a person engaged in an industry affecting commerce who has twenty or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year: Provided, That prior to June 30, 1968, employers having fewer than fifty employees shall not be considered employers. The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.
- (c) The term “employment agency” means any person regularly undertaking with or without compensation to procure employees for an employer and includes an agent of such a person; but shall not include an agency of the United States.
- (d) The term “labor organization” means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.
- (e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is fifty or more prior to July 1, 1968, or twenty-five or more on or after July 1, 1968, and such labor organization—
- (1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended [29 U.S.C. 151 et seq.], or the Railway Labor Act, as amended [45 U.S.C. 151 et seq.]; or
- (2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or
- (3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or
- (4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or
- (5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.
- (f) The term “employee” means an individual employed by any employer except that the term “employee” shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer’s personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision. The term “employee” includes any individual who is a citizen of the United States employed by an employer in a workplace in a foreign country.
- [The exclusion from the term “employee” of any person chosen by an elected official “to be on such official’s personal staff, or an appointee on the policymaking level or an immediate adviser with respect

to the exercise of the constitutional or legal powers of the office,” remains in section 11(f). However, the Civil Rights Act of 1991 now provides special procedures for such persons who feel they are victims of age and other types of discrimination prohibited by EEOC enforced statutes. See section 321 of the Civil Rights Act of 1991.]

(g) The term “commerce” means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term “industry affecting commerce” means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry “affecting commerce” within the meaning of the Labor-Management Reporting and Disclosure Act of 1959 [29 U.S.C. 401 et seq.].

(i) The term “State” includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.].

(j) The term “firefighter” means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

(k) The term “law enforcement officer” means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of a State, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this subsection, “detention” includes the duties of employees assigned to guard individuals incarcerated in any penal institution.

(l) The term “compensation, terms, conditions, or privileges of employment” encompasses all employee benefits, including such benefits provided pursuant to a bona fide employee benefit plan.

AGE LIMITS

SEC. 631. [Section 12]

(a) Individuals of at least 40 years of age

The prohibitions in this chapter shall be limited to individuals who are at least 40 years of age.

(b) Employees or applicants for employment in Federal Government

In the case of any personnel action affecting employees or applicants for employment which is subject to the provisions of section 633a of this title [section 15], the prohibitions established in section 633a of this title [section 15] shall be limited to individuals who are at least 40 years of age.

(c) Bona fide executives or high policymakers

(1) Nothing in this chapter shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least \$44,000.

(2) In applying the retirement benefit test of paragraph (1) of this subsection, if any such retirement benefit is in a form other than a straight life annuity (with no ancillary benefits), or if employees contribute to any such plan or make rollover contributions, such benefit shall be adjusted in accordance with regulations prescribed by the Equal Employment Opportunity Commission, after consultation with the Secretary of the Treasury, so that the benefit is the equivalent of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made.

ANNUAL REPORT

SEC. 632. [Section 13]

[Repealed]

FEDERAL-STATE RELATIONSHIP

SEC. 633. [Section 14]

(a) Federal action superseding State action

Nothing in this chapter shall affect the jurisdiction of any agency of any State performing like functions with regard to discriminatory employment practices on account of age except that upon commencement of action under this chapter such action shall supersede any State action.

(b) Limitation of Federal action upon commencement of State proceedings

In the case of an alleged unlawful practice occurring in a State which has a law prohibiting discrimination in employment because of age and establishing or authorizing a State authority to grant or seek relief from such discriminatory practice, no suit may be brought under section 626 of this title [section 7] before the expiration of sixty days after proceedings have been commenced under the State law, unless such proceedings have been earlier terminated: Provided, That such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State law. If any requirement for the commencement of such proceedings is imposed by a State authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State authority.

NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

SEC. 633a. [Section 15]

(a) Federal agencies affected

All personnel actions affecting employees or applicants for employment who are at least 40 years of age (except personnel actions with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of Title 5 [5 U.S.C. § 102], in executive agencies as defined in section 105 of Title 5 [5 U.S.C. § 105] (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Regulatory Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the judicial branch of the Federal Government having positions in the competitive service, in the Smithsonian Institution, and in the Government Printing Office, the Government Accountability Office, and the Library of Congress shall be made free from any discrimination based on age.

(b) Enforcement by Equal Employment Opportunity Commission and by Librarian of Congress in the Library of Congress; remedies; rules, regulations, orders, and instructions of Commission: compliance by Federal agencies; powers and duties of Commission; notification of final action on complaint of discrimination; exemptions: bona fide occupational qualification

Except as otherwise provided in this subsection, the Equal Employment Opportunity Commission is authorized to enforce the provisions of subsection (a) of this section through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Equal Employment Opportunity Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Equal Employment Opportunity Commission shall-

- (1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each department, agency, or unit referred to in subsection (a) of this section;
- (2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Equal Employment Opportunity Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him the reunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Equal Employment Opportunity Commission shall be exercised by the Librarian of Congress.

(c) Civil actions; jurisdiction; relief

Any person aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this chapter.

(d) Notice to Commission; time of notice; Commission notification of prospective defendants; Commission elimination of unlawful practices

When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

(e) Duty of Government agency or official

Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.

(f) Applicability of statutory provisions to personnel action of Federal departments, etc.

Any personnel action of any department, agency, or other entity referred to in subsection (a) of this section shall not be subject to, or affected by, any provision of this chapter, other than the provisions of sections 7(d)(3) and 631(b) of this title [section 12(b)] and the provisions of this section.

(g) Study and report to President and Congress by Equal Employment Opportunity Commission; scope

(1) The Equal Employment Opportunity Commission shall undertake a study relating to the effects of the amendments made to this section by the Age Discrimination in Employment Act Amendments of 1978, and the effects of section 631(b) of this title [section 12(b)].

(2) The Equal Employment Opportunity Commission shall transmit a report to the President and to the Congress containing the findings of the Commission resulting from the study of the Commission under paragraph (1) of this subsection. Such report shall be transmitted no later than January 1, 1980.

[Section 16 of the ADEA (not reproduced in the U.S. Code)]

Appendix IX: Executive Order 13166

Executive Order 13166 of August 11, 2000

Improving Access to Services for Persons With Limited English Proficiency

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP), it is hereby ordered as follows:

Section 1. Goals.

The Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients of Federal financial assistance (recipients) provide meaningful access to their LEP applicants and beneficiaries. To assist the agencies with this endeavor, the Department of Justice has today issued a general guidance document (LEP Guidance), which sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. As described in the LEP Guidance, recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

Sec. 2. Federally Conducted Programs and Activities.

Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities. Agencies shall develop and begin to implement these plans within 120 days of the date of this order, and shall send copies of their plans to the Department of Justice, which shall serve as the central repository of the agencies' plans.

Sec. 3. Federally Assisted Programs and Activities.

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance. Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order, each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the **Federal Register** for public comment.

Sec. 4. Consultations.

In carrying out this order, agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies

in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.

Sec. 5. *Judicial Review.*

This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.

THE WHITE HOUSE,

August 11, 2000.

[FR Doc. 00-20938

Filed 8-15-00; 8:45 am]

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Appendix X - Environmental Justice Impact Evaluation

FDM 21-15 Attachment 5.7 Environmental Justice Evaluation

ENVIRONMENTAL JUSTICE IMPACT EVALUATION
DT2093 2004

Wisconsin Department of Transportation

Alternative	Preferred <input type="checkbox"/> Yes <input type="checkbox"/> No
Length of Center Line and Termini This Sheet is Evaluating	

- Determine the presence and estimate the size of the minority population and/or low-income population affected by the proposed action. Visit www.fhwa.dot/legisregs/directives/orders/6640_23.htm and www.aoa.gov/prof/poverty_guidelines/poverty_guidelines.asp for definitions of Environmental justice protected populations.
 - ☐ No minority populations or low-income populations are present in the project's area of influence. (Process is complete.)
 - ☐ Yes, a minority population or low-income population is located in the project's area of influence. (Proceed with the evaluation.)
- Identify and give a brief description of the minority populations or low-income populations affected by the proposed action. Include the relative size of the populations and their pertinent demographic characteristics. (Check all that apply.)
 - ☐ Black (having origins in any of the black racial groups of Africa)
 - ☐ Low income
 - ☐ Elderly
 - ☐ Disabled
 - ☐ Hispanic (of Mexican, Puerto Rican, Cuban or South American, or other Spanish culture or origin, regardless of race)
 - ☐ Low income
 - ☐ Elderly
 - ☐ Disabled
 - ☐ Asian American (having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands)
 - ☐ Low income
 - ☐ Elderly
 - ☐ Disabled
 - ☐ American Indian and Alaska Native (having origins in any of the original people of North American and who maintains cultural identification through tribal affiliation or community recognition)
 - ☐ Low income
 - ☐ Elderly
 - ☐ Disabled
 - ☐ White and any combination of the above.
 - ☐ Low income
 - ☐ Elderly
 - ☐ Disabled
 - ☐ Non-minority low-income population
 - ☐ Elderly
 - ☐ Disabled
- As a result of public involvement and inter-agency coordination, identify and describe issues of concern or controversy to the minority population or low-income population.
 - ☐ No issues of concern or controversy identified.
 - ☐ Issues of concern or controversy identified below. Describe issues and how they were resolved.

FDM 21-15 Attachment 5.7 Environmental Justice Evaluation

4. Based on data and scientific analyses (e.g., modeling, regression analysis, etc.), identify and describe effect(s) to the minority population or low-income population.

Indicate which other environmental factors are involved or inter-related.

- | | | |
|---|--|---|
| <input type="checkbox"/> General Economics | <input type="checkbox"/> Community & Residential | <input type="checkbox"/> Economic Development & Business |
| <input type="checkbox"/> Agriculture | <input type="checkbox"/> Wetlands | <input type="checkbox"/> Streams & Floodplains |
| <input type="checkbox"/> Lakes & Other Open Water | <input type="checkbox"/> Upland | <input type="checkbox"/> Erosion Control |
| <input type="checkbox"/> Storm Water Management | <input type="checkbox"/> Air Quality | <input type="checkbox"/> Construction Stage Sound Quality |
| <input type="checkbox"/> Traffic Noise | <input type="checkbox"/> Section 4(f) & 6(f) | <input type="checkbox"/> Historic Resources |
| <input type="checkbox"/> Archeological Resources | <input type="checkbox"/> Hazardous Substances & USTs | <input type="checkbox"/> Aesthetics |
| <input type="checkbox"/> Coastal Zone | <input type="checkbox"/> Noise | <input type="checkbox"/> Other |

(NOTE: 3 and 4 above may overlap)

5. Indicate whether effects to a minority population or a low-income population are beneficial or adverse.

- ☐ Only beneficial effects will occur. Describe effects on affected population and discuss whether they are direct, indirect or cumulative. Include a discussion of any measures to enhance beneficial effects. (Process is complete.)
- ☐ Identified adverse effects are proportionate to those experienced by the general population. Describe effects on affected population and discuss whether they are direct, indirect or cumulative. Include a discussion of any measures to avoid, minimize, or mitigate adverse effects. (Process is complete.)
- ☐ Identified effects are disproportionately high and adverse. A disproportionately high and adverse effect means an adverse effect that: 1) is predominately borne by a minority population and/or a low-income population; or 2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

Describe disproportionately high and adverse effects on affected population and discuss whether they are direct, indirect or cumulative. Include a discussion of any measures to avoid, minimize, or mitigate disproportionately high and adverse effects or enhance beneficial effects.

6. Indicate whether the individuals in the affected population(s) are protected under Title VI of the 1964 Civil Rights Act. (Title IV prohibits discrimination on the basis of race, color, or country of origin. See item 2 above for definitions of Title VI minorities.)

- ☐ No – Title VI protections do not apply, but other requirements under the Age Discrimination Act or Americans With Disabilities Act do apply. Describe effects and how they will be avoided, minimized or mitigated.
- ☐ Yes - Title VI protections apply. Describe any special services, considerations, or mitigation that will be used to avoid, minimize, or mitigate effects to Title VI individuals.

7. Will the Alternative/Project be carried out even with disproportionately high and adverse effects on a minority population or low-income population?

- ☐ No, the Alternative/Project will not be carried out because of disproportionately high and adverse effects on a minority population or low-income population.
- ☐ There is no substantial need for the Alternative/Project.
- ☐ Another alternative with less severe effects on the minority population or low-income population can meet the needs of this and is practical.

FDM 21-15 Attachment 5.7 Environmental Justice Evaluation

- ☐ Yes, the Alternative/Project will be carried out with the mitigation of disproportionately high and adverse effects.
- ☐ Yes, a substantial need for the Alternative/Project exists based on the overall public interest. Alternatives that would have less adverse effects on minority populations or low-income populations have either:
 - ☐ Adverse social, economic, environmental, or human health impacts that are more severe; or
 - ☐ Would involve increased costs of an extraordinary magnitude.
- 8. Identify and discuss mitigation and enhancement efforts to address disproportionately high and adverse effects to Title VI protected minority people if different from those shown in item 5 above.